

2019 LEGAL EPIDEMIOLOGY SYMPOSIUM

Looking Back and Looking Ahead

SEPTEMBER 13, 2019



SESSION 4

The Continuing Struggle to Harmonize Drug Law with Public Health Evidence and Practice

- **Nicolas Terry**, Indiana University
McKinney School of Law
- **Leo Beletsky**, Northeastern University
School of Law and Bouvé College of
Health Sciences
- **Ronda Goldfein**, AIDS Law Project of
Philadelphia
- **Evan Anderson**, University of
Pennsylvania School of Nursing
- **Devin Reaves**, Pennsylvania Harm
Reduction Coalition
- Heidi Grunwald, CPHLR (Moderator)

Opioids & Medicaid

@nicolasterry

Hall Render Professor of Law
& Executive Director of the Hall Center for Law and Health



Indiana University Robert H. McKinney School of Law

Figure 1

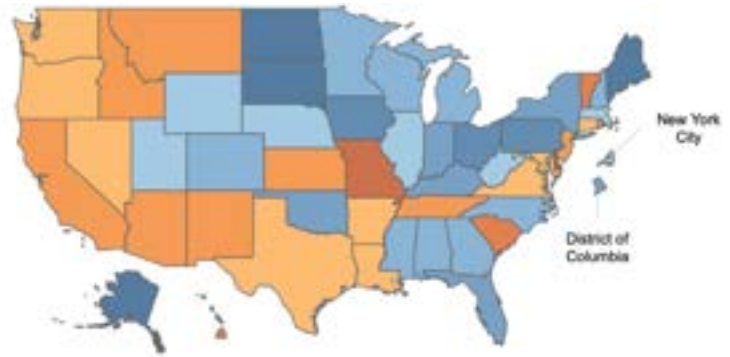
Social Determinants of Health

Economic Stability	Neighborhood and Physical Environment	Education	Food	Community and Social Context	Health Care System
Employment	Housing	Literacy	Hunger	Social integration	Health coverage
Income	Transportation	Language	Access to healthy options	Support systems	Provider availability
Expenses	Safety	Early childhood education		Community engagement	Provider linguistic and cultural competency
Debt	Parks	Vocational training		Discrimination	
Medical bills	Playgrounds	Higher education		Stress	Quality of care
Support	Walkability				
	Zip code / geography				

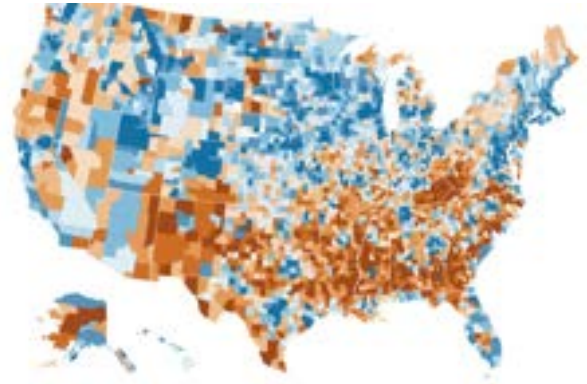
Health Outcomes

Mortality, Morbidity, Life Expectancy, Health Care Expenditures, Health Status, Functional Limitations

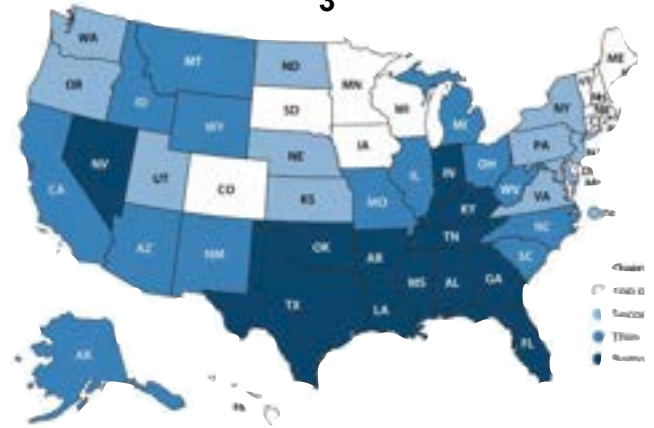
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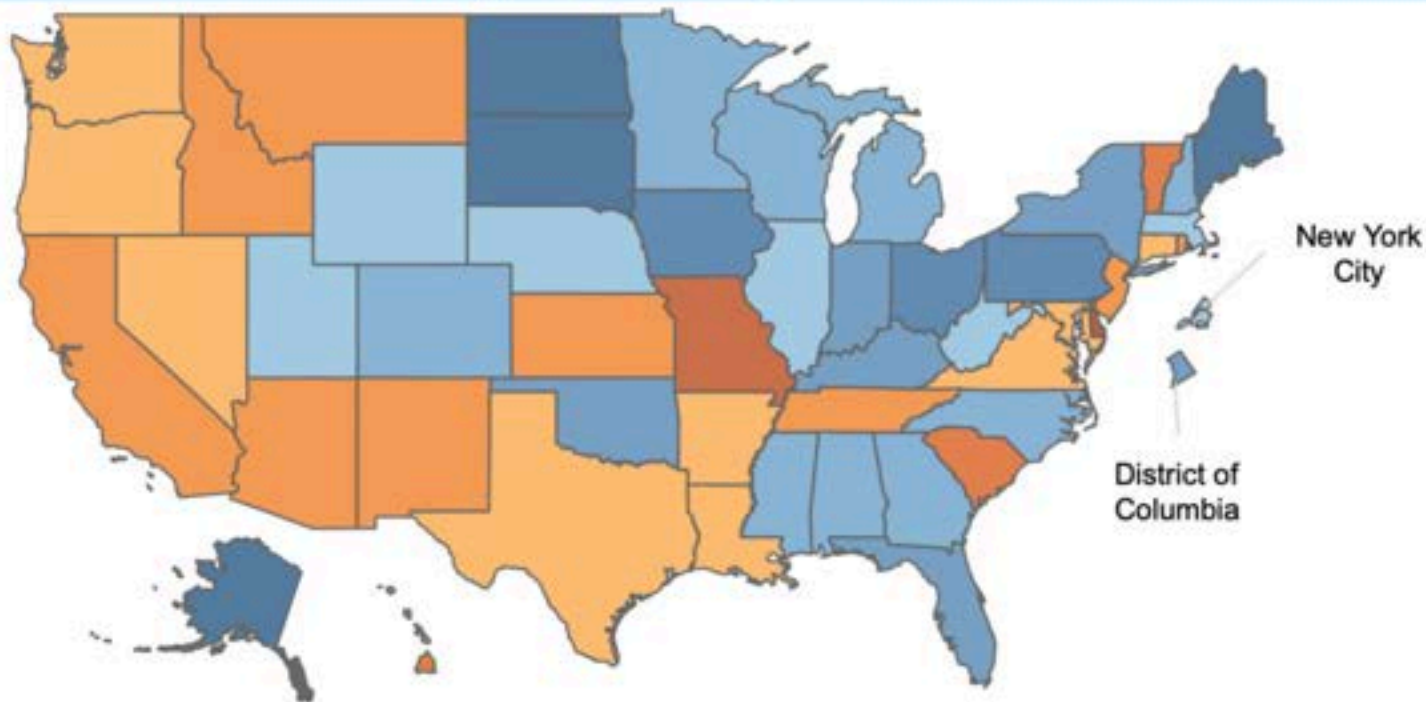
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4



**Figure 1b. Percent Change in Predicted 12 Month-ending Count of Drug Overdose Deaths, by Jurisdiction:
January 2018 to January 2019**



Legend for Percent Change in Drug Overdose Deaths Between 12-Month Ending Periods

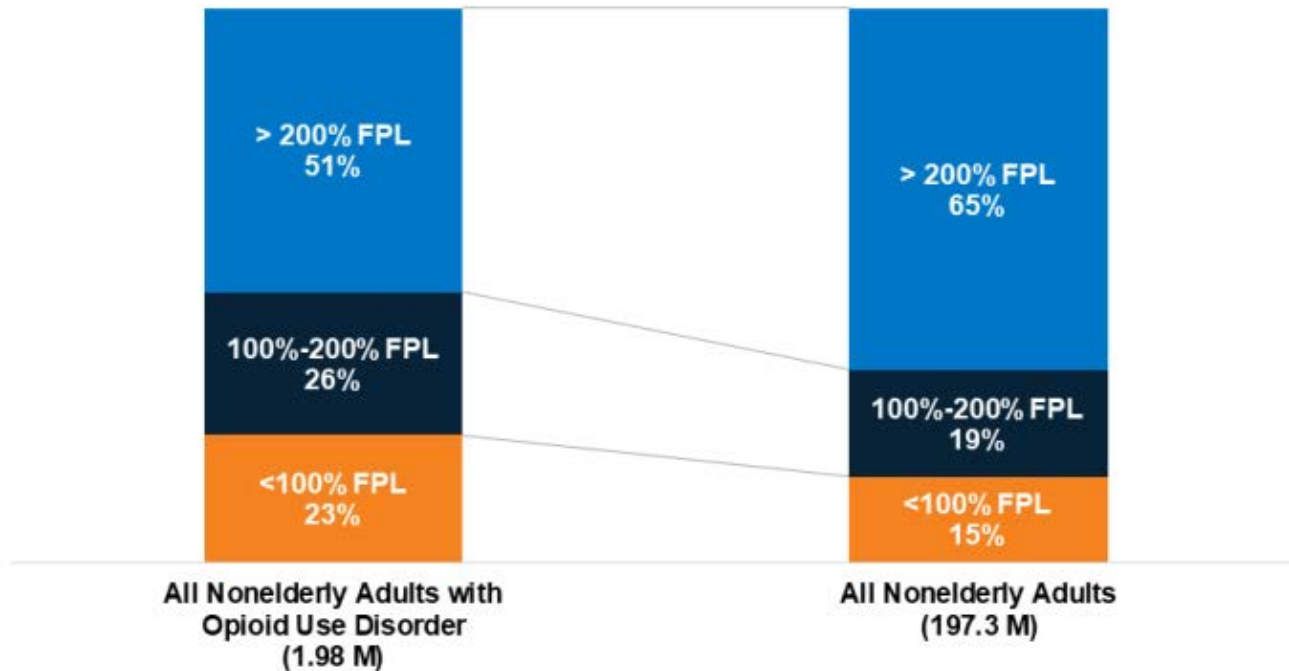
-23.8



23.8

Figure 2

Income of Nonelderly Adults with Opioid Use Disorder and All Nonelderly Adults, 2017

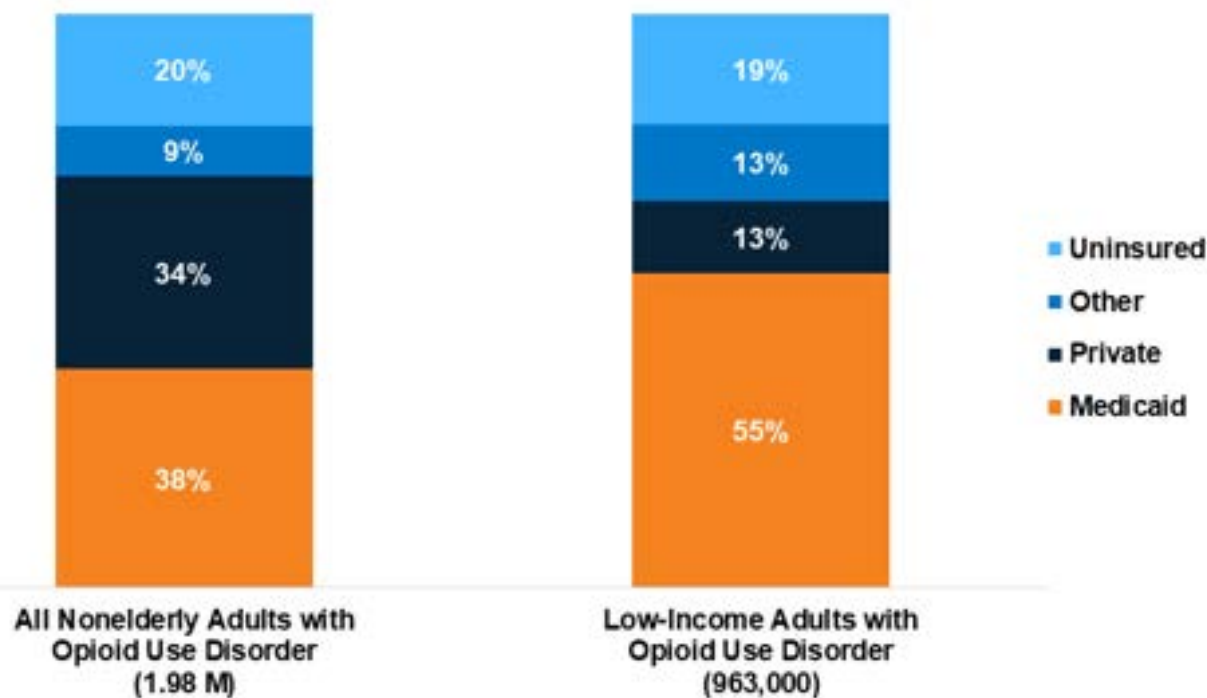


NOTE: Totals may not sum to 100% due to rounding. Nonelderly adults are 18 to 64 years. FPL is Federal Poverty Level. In 2017, the FPL for an individual was \$12,060.

SOURCE: KFF analysis of 2017 National Survey on Drug Use and Health (NSDUH).

Figure 3

Insurance Status of Nonelderly Adults with Opioid Use Disorder, 2017



NOTE: Totals may not sum to 100% due to rounding. Nonelderly adults are 18 to 64 years. Low income is defined as having income below 200% FPL or \$24,120 in 2017. Other insurance includes Medicare, CHAMPUS, or any other type of health insurance.
SOURCE: KFF analysis of 2017 National Survey on Drug Use and Health (NSDUH).



FACING ADDICTION IN AMERICA

*The Surgeon General's Report on
Alcohol, Drugs, and Health*

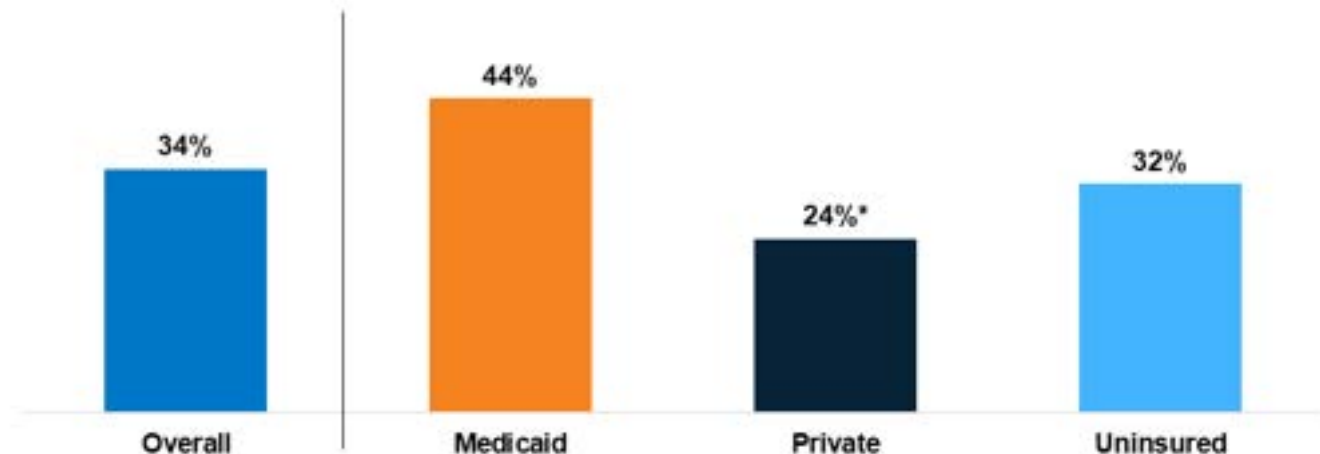
U.S. Department of Health & Human Services

“Medicaid expansion is a key lever for expanding access to substance use treatment because many of the most vulnerable individuals with substance use disorders have incomes below 138 percent of the federal poverty level.”
(Surgeon-General’s Report, 2016)

Figure 4

Past-Year Treatment Utilization among Nonelderly Adults with Opioid Use Disorder, by Insurance Status, 2017

Total Number of Nonelderly Adults with Opioid Use Disorder: 1.98 Million



* Indicates a statistically significant difference from the Medicaid population at the $p < 0.05$ level.

NOTE: Nonelderly adults are 18 to 64 years. Any treatment includes receiving drug and/or alcohol treatment at any of the following in the past year: inpatient hospital, residential rehabilitation, outpatient rehabilitation, mental health center, and private doctors' office.

SOURCE: KFF analysis of 2017 National Survey on Drug Use and Health (NSDUH).



- In states that expanded Medicaid, the number of people hospitalized with a SUD who did not have health insurance decreased from about 20 percent in 2013... to 5 percent in 2015. And a growing number of states are using Medicaid to improve the capacity of substance use service providers to deliver comprehensive care. (CBPP)
- After Kentucky expanded Medicaid, the state experienced a 700 percent increase in the utilization of substance use services. (Foundation for a Healthy Kentucky, 2016)
- Between 2009 and 2013 — prior to Medicaid expansion — the number of Medicaid-covered naloxone prescriptions was similar in the two groups of states: those that later opted to expand program eligibility (4,025) and those that did not (3,800). After expansion, the pattern changed. In 2016, expansion states dispensed 38,000 naloxone prescriptions, compared with just 7,000 in nonexpansion states. In 2009, Medicaid sales of naloxone were less than 1 percent of sales of the drug nationwide; by 2016, that figure had grown to 25 percent. (Frank & Fry, 2019)
- Medicaid expansion in California was associated with a reduction in the number of evictions, with 24.5 fewer evictions per month in each county from a pre-expansion average of 224.7. (Heidi L. Allen, Erica Eliason, Naomi Zewde, and Tal Gross, 2019)

Executive Summary Table: Key Themes in Section 1115 Behavioral Health Waivers as of Nov. 2017

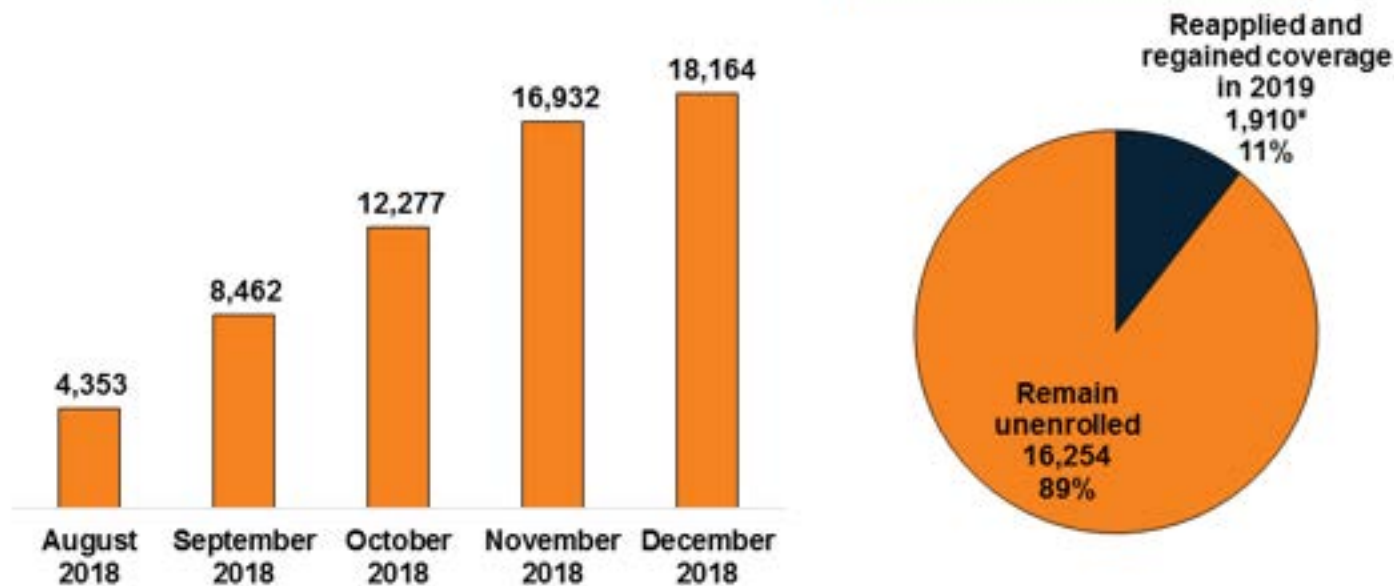
Waiver Provision	# of States with Approved Waiver	# of States with Pending Waiver
IMD Payment Exclusion	7 approved for substance use treatment,	7 pending for substance use treatment,
	1 approved for mental health services	2 pending for mental health services
Community-Based Benefit Expansions	9 approved	5 pending
Eligibility Expansions	6 approved	2 pending
Delivery System Reforms	5 approved	3 pending

Figure 1

11% of enrollees who lost coverage in 2018 due to work and reporting requirements have regained coverage in 2019.

Total enrollees who lost coverage in 2018 due to work and reporting requirements = 18,164

89% of enrollees who lost coverage in 2018 remain unenrolled in 2019.



NOTE: *Of the 1,910 enrollees who regained coverage in 2019, 1,889 did so through AR Works, and 21 did so through other pathways.

SOURCE: Ark. Dep't of Human Services, [Feb. 2019 Report](#) (data as of March 7, released on March 15, 2019).

- Reduction in Number of Insureds
 - Kentucky: Based on Arkansas's experience, MEPS data, and [other] estimates about 108,000 people would likely lose Medicaid coverage as result of the work requirements over a 24-month period. Adding work requirements would increase the number of nondisabled adults churning off Medicaid in Kentucky from estimated 108,000 adults to 216,000 — a 100% increase. (Collins et al, 2018)
- And It's Bad Business!
 - Kentucky: Hospital operating margins would decline 1.6%–2.9%
 - New Hampshire: Federal government pays 90%-a new study suggests's new work requirements and so ineligibility would mean losing about 7 percent to 11 percent of the state's entire general funds budget. (Commonwealth Fund)



SUD Carve-Outs?

- Many people with SUDs won't be eligible for work requirement exemptions. By definition, the "medically frail" exemption includes people with "chronic" SUDs, but that suggests people must have had multiple episodes of substance use or that their illness must have persisted for a long time. Many people with SUDs will not meet this standard.
- Accommodations built around counting SUD treatment fail because of lack of treatment centers and don't count post-treatment care
- Persons with SUD frequently churn in and out of treatment
- Accommodations require paperwork and administrative requirements that have been shown to decrease eligibility
- SUD diagnosis is based partly on whether the person's substance use results in a failure to meet major responsibilities at work, school, or home.

Q & A

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Twitter: [@nicolasterry](https://twitter.com/nicolasterry)

Podcast: TWIHL.com



Nicolas Terry

Hall Render Professor of Law

& Executive Director of the Hall Center for Law and Health



Indiana University Robert H. McKinney School of Law

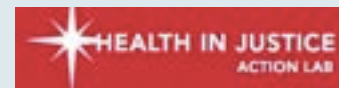
Using Legal Epidemiology to Assess Overdose Crisis Response: The Case of Drug-Induced Homicide

PHLR Symposium
September 13, 2019

Leo Beletsky, JD, MPH

Northeastern University
School of Law and
Bouvé College of Health Sciences

UC San Diego School of Medicine



Conflict Declaration

No conflicts to declare

A Note about Language

1. Language begets narratives, which beget policies and practices
 - “Abuse” and “abuser” charged w/ stigma (e.g. Ashford et al, 2018)
 - Dealers, pushers, users, addicts
 - “Dependence” ≠ “addiction”
 - Treatment ≠ “substituting one drug with another,” “detox”
 - More about language: www.changingthenarrative.news
2. Linguistic norms define the goals and the means
3. Changing policy and practice requires changes in narratives, language, and imagery

Punishment as an Antidote

Drug dealers would face homicide charges after overdose under Senate



The New York State Senate



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This law would hold drug dealers accountable for the true cost of their activities, significantly diminish the open availability of these dangerous drugs on our streets and give district attorneys the necessary tools to work up the criminal chain to the ultimate supplier because facing life imprisonment for any amount of drugs that results in death is a profound disincentive to sell drugs within the state of New York.

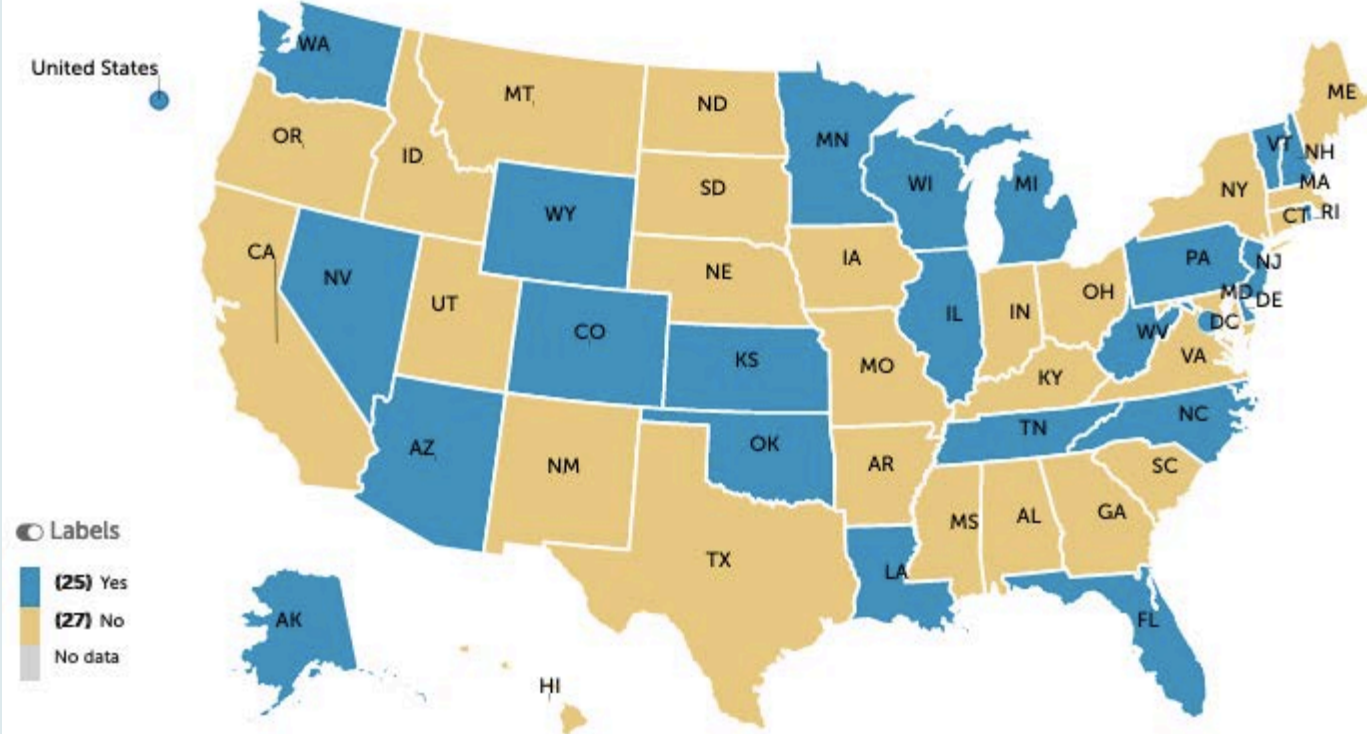
This law seeks to punish those individuals involved in the illegal drug trade and is not intended to punish those individuals who are merely co-users.. Therefore a co-user who shares the drugs with the victim still has an incentive to follow the current good Samaritan law and save the other person as he or she will be able to avoid prosecution for homicide by sale of an opiate controlled substance and instead admit to a lower felony because it still is a distribution.

TERRENCE M.
ISSUE CRIME



Operationalization: DIH Statutes

1/1/19 Does the state have a specific drug induced homicide law?



Source: www.pdaps.org

Operationalization: DIH Prosecutions

EXCLUSIVE: U.S. Attorney Preet Bharara to slap opioid dealers linked to fatal overdoses with federal charges



Manhattan U.S. Attorney Preet Bharara

THE UNITED STATES ATTORNEY'S OFFICE
SOUTHERN DISTRICT *of* NEW YORK

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SHARE

FOR IMMEDIATE RELEASE

Wednesday, October 12, 2016

United States Attorney Announces Charges Against Narcotics Trafficker Connected To Heroin Overdose Death

Preet Bharara, the United States Attorney for the Southern District of New York, William F. Sweeney Jr.,

U.S. Attorney Preet Bharara stated: “The epidemic of opioid abuse is devastating our communities. Charges like those announced today strike at the heart of the problem – dealers who fuel the cycle of addiction and overdose. Anthony Delosangeles allegedly dealt in heroin, including the heroin that killed Thomas Cippollaro, a 25 year-old White Plains man. We thank the FBI and our local law enforcement partners for their extraordinary efforts that led to the charges today.”

Punishment as an Antidote

Drug dealers would face homicide charges after overdose under Senate



The New York State Senate



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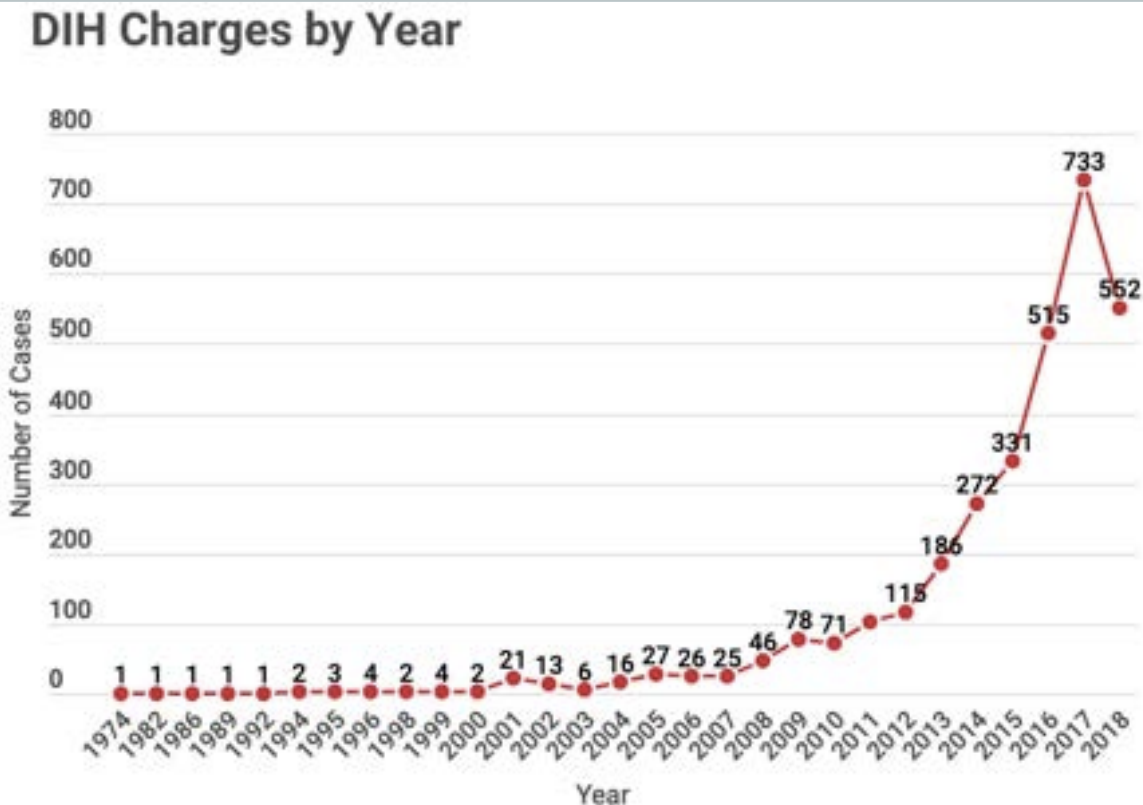
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This law seeks to punish those individuals involved in the illegal drug trade and is not intended to punish those individuals who are merely co-users.. Therefore a co-user who shares the drugs with the victim still has an incentive to follow the current good Samaritan law and save the other person as he or she will be able to avoid prosecution for homicide by sale of an opiate controlled substance and instead admit to a lower felony because it still is a distribution.

TERRENCE M.
ISSUE CRIME

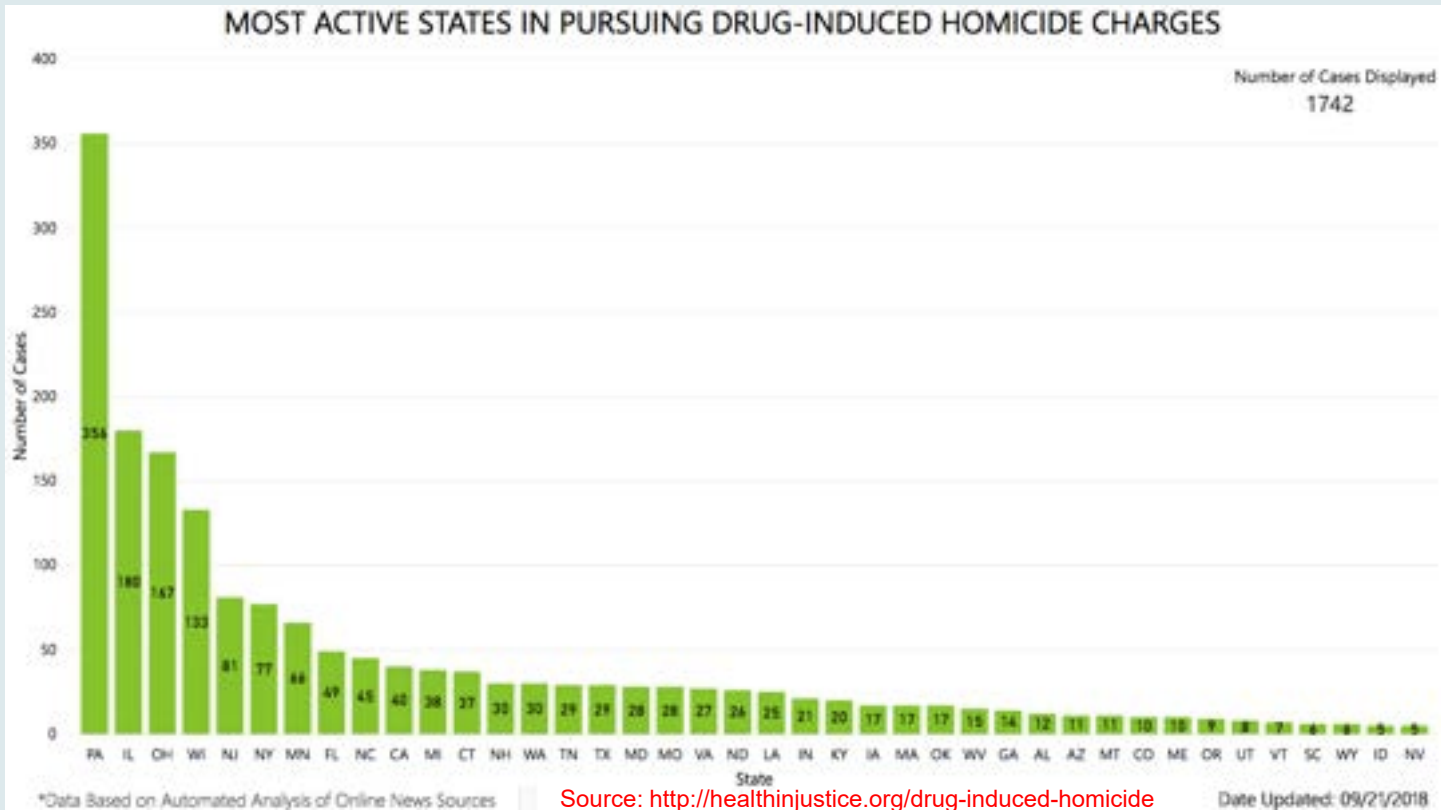


Surge of DIH Charges Overtime

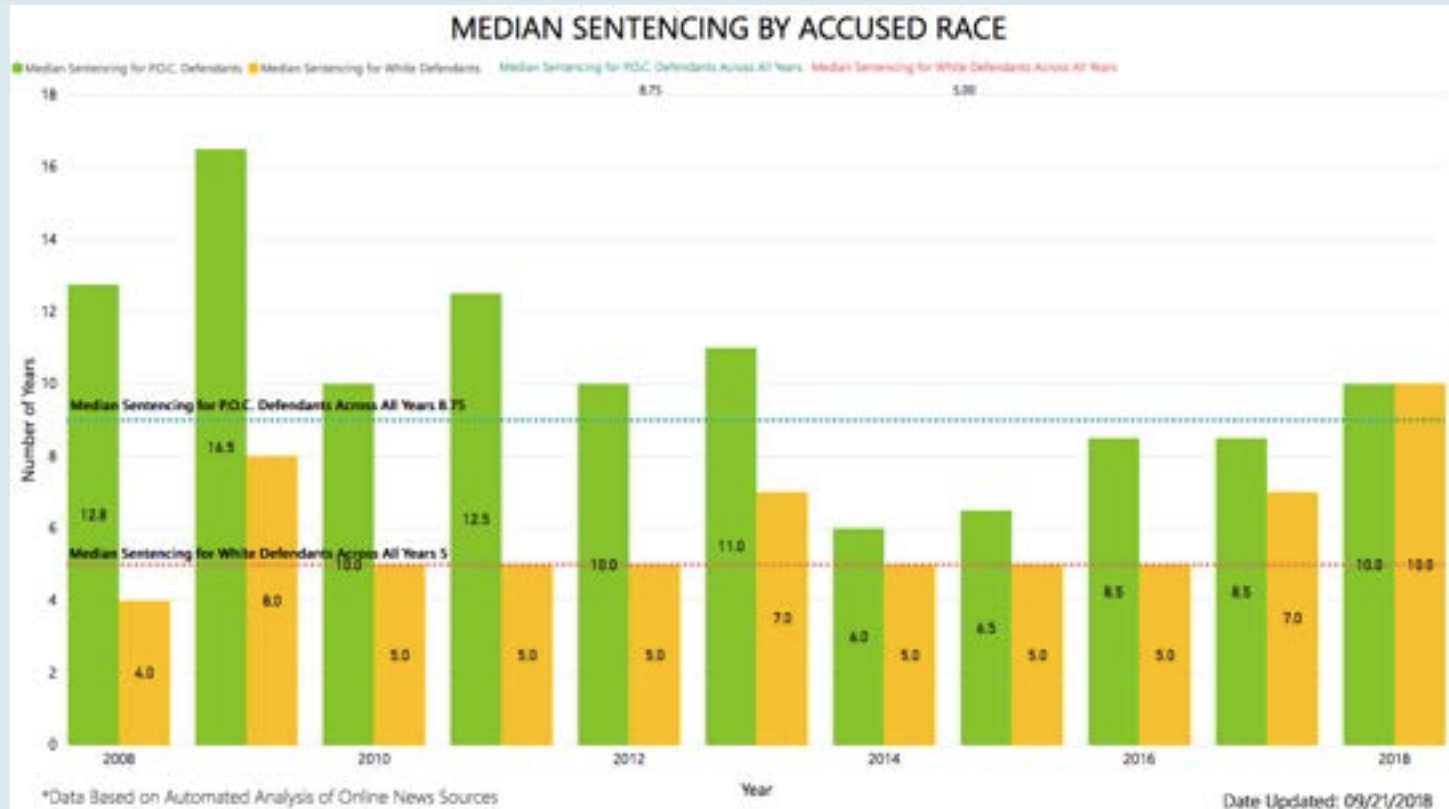


Source: <http://healthinjustice.org/drug-induced-homicide>

Uneven Geographic Distribution



Mapping onto Drug War Disparities

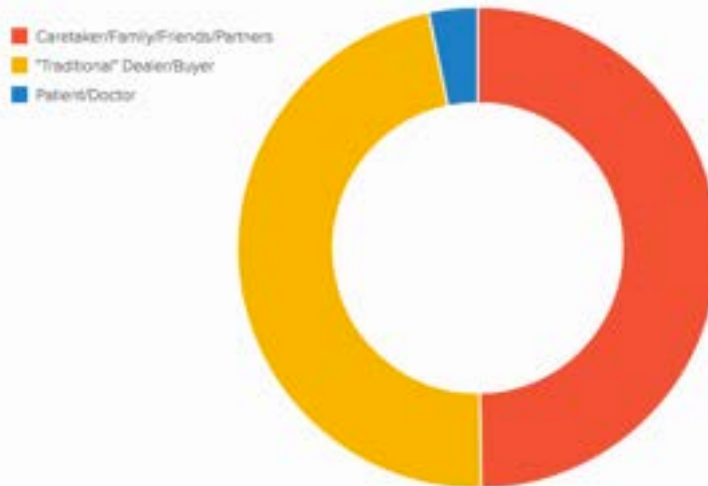


Mapping onto Drug War Disparities

HEALTH IN JUSTICE

HOME PROJECTS ABOUT US PARTNERS CONTACT US PRESS

RELATIONSHIP BETWEEN ACCUSED AND VICTIM



RELATIONSHIP BETWEEN ACCUSED AND VICTIM

Majority of cases represent charges being filed against individuals who cannot be defined as "drug dealers," but are instead family members, partners, or other actors.

Source: Online News Articles (2000-2017)

Source: <http://healthinjustice.org/drug-induced-homicide>

Rising Tide of Punitive Responses



Public Health Impact: Helpseeking

International Journal of Drug Policy 90 (2017) 60–69

Contents lists available at ScienceDirect

International Journal of Drug Policy

journal homepage: www.elsevier.com/locate/drugpo

Research paper

"Caught with a body" yet protected by law? Calling 911 for opioid overdose in the context of the Good Samaritan Law

Amanda D. Latimore^{a,b,c,d,*}, Rachel S. Bergstein^{b,c,d}

^aBaltimore City Health Department, 300 East Avenue Street, Baltimore, MD 21202, United States
^bBaltimore Hopkins Bloomberg School of Public Health, 615 North Wolfe Street, Baltimore, MD 21205, United States

JOURNAL OF CRIME AND JUSTICE, 2016
<http://dx.doi.org/10.1080/0735448X.2016.1210932>

Routledge
Taylor & Francis Group

Contents lists available at ScienceDirect

International Journal of Drug Policy

journal homepage: www.elsevier.com/locate/drugpo

Research paper

Why are some people who have received overdose education and naloxone reticent to call Emergency Medical Services in the event of overdose?

Stephen Koester^{b,c,d}, Shane R. Mueller^{b,c,d}, Lisa Kaville^e, Sig Langegger^f, Ingrid A. Binswanger^{g,h}

^aDepartment of Anthropology, University of Colorado Denver, Denver, CO, USA
^bDepartment of Health & Behavioral Sciences, University of Colorado Denver, Denver, CO, USA
^cDivision of General Internal Medicine, University of Colorado School of Medicine, 1200 E. 17th Ave, P-100 Avenue, CO 80202, USA
^dCentennial for Health Research, Walter P. Reuther Institute, University of Colorado, Denver, CO, USA
^eAngie Harkness Aikin Center, 201 F. 148th Ave, Denver, CO 80231, USA
^fFaculty of International Liberal Arts, Aichi International University, Japan

"If you[re] the one that's with them when they go out, you're possibly going to be **CHARGED WITH THEIR DEATH.** So that's the main reason why a lot of people don't call [911]."

Regulatory Failure

- Crowding out & opportunity costs:
 - Investigation
 - Incarceration
 - Public attention/resolve
- Public health subject to “prevention paradox”

Next Steps

- DIH statute elements as determinants of prosecution dynamics
- DIH statutes and prosecutions as overdose prevention measures
- Defining “public health approach”
- Fentanyl myths as a catalyst for DIH statutes
- Using research to shape policy

Contact

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www.healthinjustice.org

AIDS Law Project of Pennsylvania

AIDSLawPa.org



Ronda B. Goldfein, Esq.
Executive Director

S a f e h o u s e

A public health approach to
overdose prevention in Philadelphia

safehousephilly.org

WHICH SHOULD BE LEGAL?...



SUPERVISED INJECTION SITE



UNSUPERVISED INJECTION SITE (WHAT WE HAVE NOW)

Signe Wilkinson, *The Philadelphia Inquirer* (August 21, 2019)

Registration

NO ILLEGAL DRUGS WILL BE PROVIDED

Assessment of physical and behavioral health

Offer of services

Data collection

Medically supervised consumption room

- Sterile equipment
- Fentanyl test strips
- Overdose reversal and emergency care
- Safe disposal of equipment

Medically supervised observation room

- Overdose reversal, emergency care
- Certified peer specialists
- Offer of services

Medical services

- Wound care
- On-site initiation of MAT (Medication-Assisted Treatment) and recovery counseling
- HIV and HCV counseling, testing, and treatment
- Primary care

Wraparound services

- Referrals to social services, legal services, and housing opportunities

Check out

Additional data collection, offer of services, and naloxone distribution

Evan Anderson, JD, PhD

University of Pennsylvania School of Nursing



The Role of Harm Reduction in Public Health

Devin Reaves, M.S.W.



@Devin_Reaves  

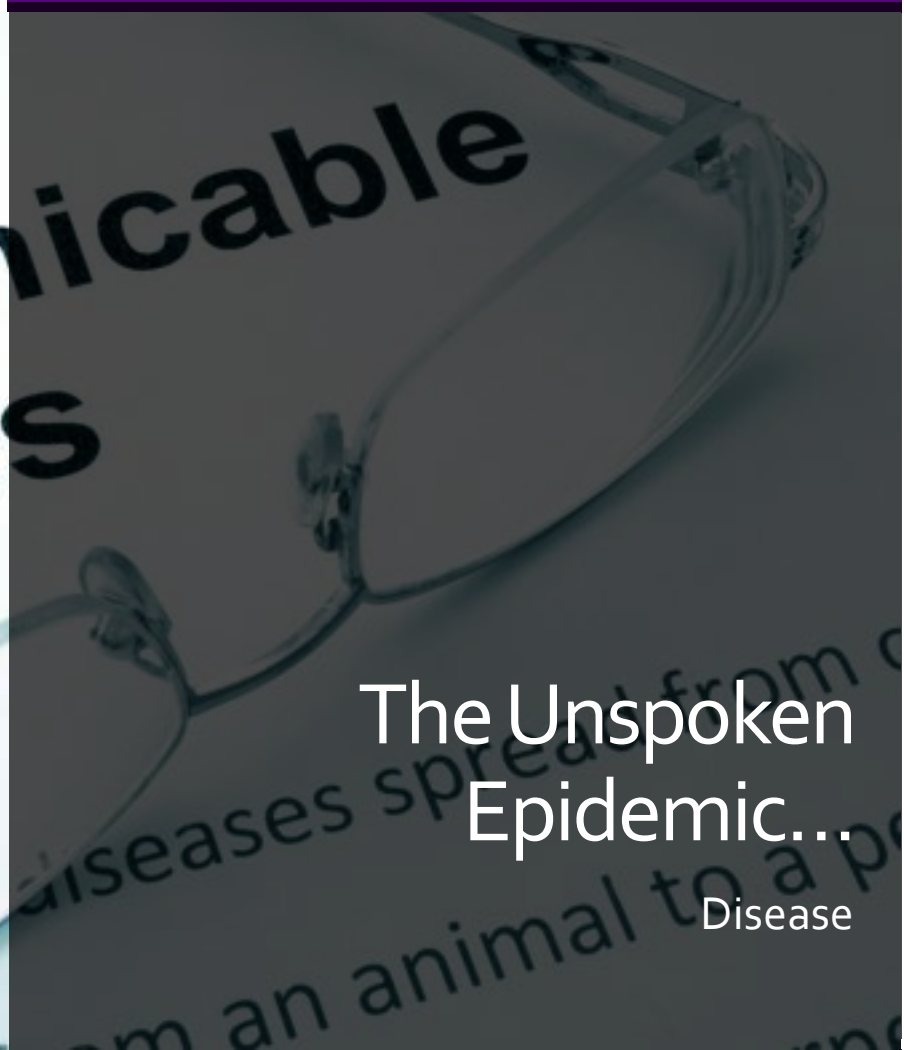




Opioid Epidemic

Or is there more ?





The Unspoken Epidemic...

Disease



Vulnerable Counties and Jurisdictions Experiencing or At-Risk of Outbreaks

Key

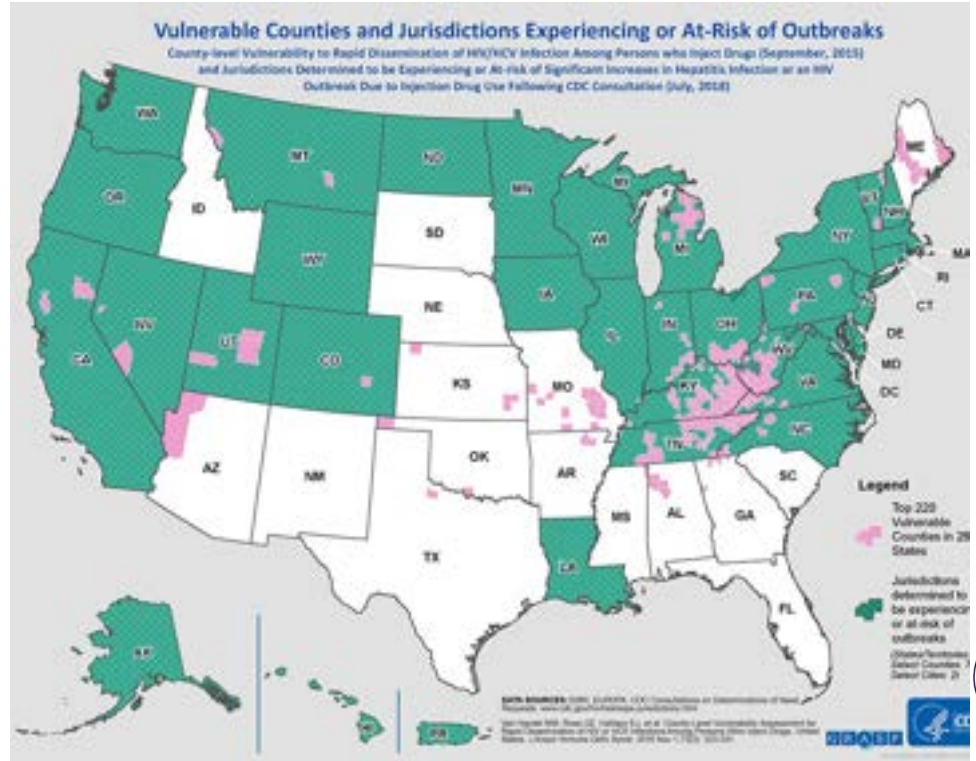


At Risk of Outbreak



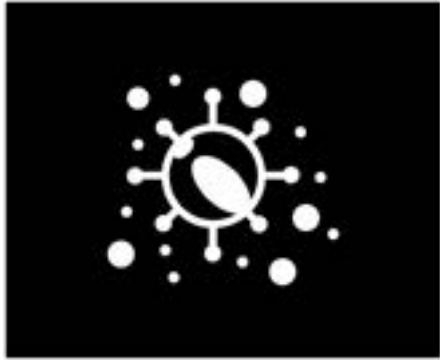
Top 220 Counties

Luzerne-38th
Cambria 131st
Crawford -188th



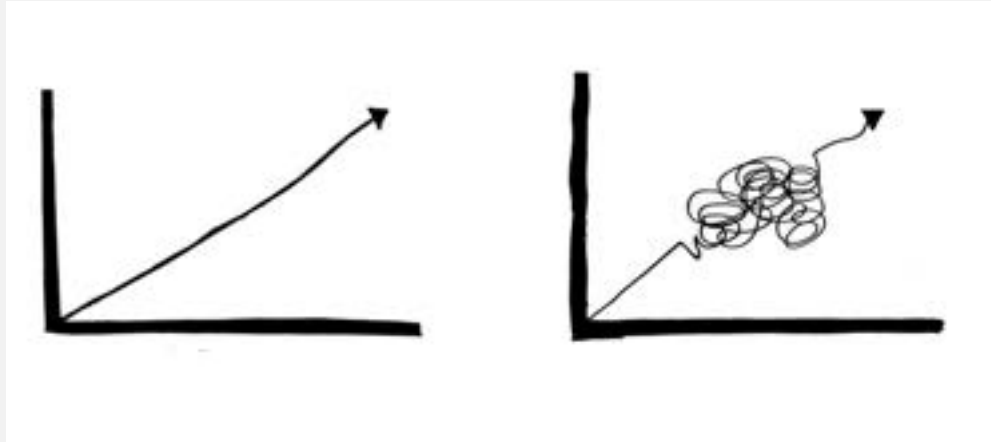
Soft Tissue Infections

Injecting of drugs is associated with skin and soft tissue infections (SSTIs) and vascular disease
These conditions include the development of cutaneous abscess and cellulitis at injection sites, and can be deadly

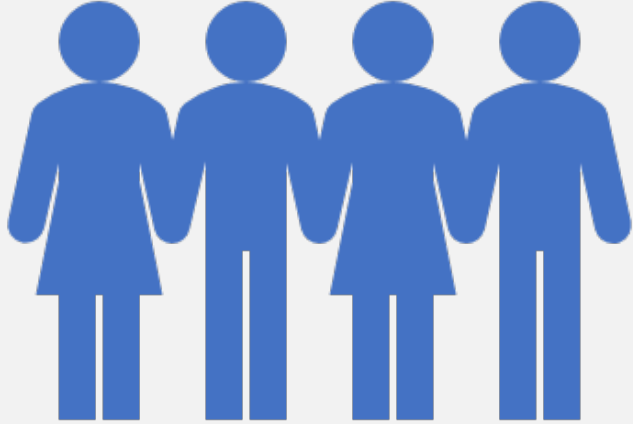


Debunking the Binary

Recovery: A process of change through which individuals improve their health and wellness, live self-directed lives, and strive to reach their full potential.

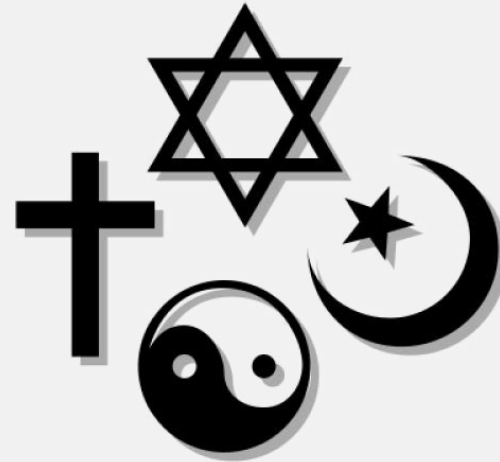


Engaging People Where They Are At



Engaging people who use drugs where they are at increases their chances of getting access to resources that would have otherwise been denied to them

Many Paths To Recovery



Medication Assisted Recovery



“Medication-Assisted Recovery” is a practical, accurate, and non-stigmatizing way to describe a pathway to recovery made possible by physician-prescribed and monitored medications, along with other recovery supports, e.g., counseling and peer support. Although no medications cure dependence on drugs or alcohol, some can play a significant and lifesaving role in helping people begin and sustain recovery.

Access to Naloxone



PREVENTION POINT
PUNTO DE PREVENCIÓN



Myths Vs Facts

- SSPs Increase & Encourage Drug Use
- SSPs Increase Crimes
- SSPs only give out needles
- Supporting SSPs isn't an effective use of public funds





Jerome C. Adams, MD Surgeon General of the United States

“No matter how uncomfortable syringe service programs make us, they are proven to save lives, both by preventing the spread of diseases like HIV and hepatitis C and by connecting people to treatment that can put them on a path to recovery.”



Alex Azar: 2019 National HIV Prevention Conference

“Syringe services programs aren’t necessarily the first thing that comes to mind when you think about a Republican health secretary, but we’re in a battle between sickness and health, between life and death.”

Scientists, including those at the Centers for Disease Control and Prevention (CDC), have studied SSPs for more than 30 years and found that comprehensive SSPs benefit communities.



SSPs save lives by lowering the likelihood of deaths from overdoses.



Providing testing, counseling, and sterile injection supplies helps prevent outbreaks of other diseases. For example, SSPs are associated with a 50% decline in the risk of HIV transmission.



Users of SSPs were three times more likely to stop injecting drugs.



Law enforcement benefits from reduced risk of needlesticks, no increase in crime, and the ability to save lives by preventing overdoses.



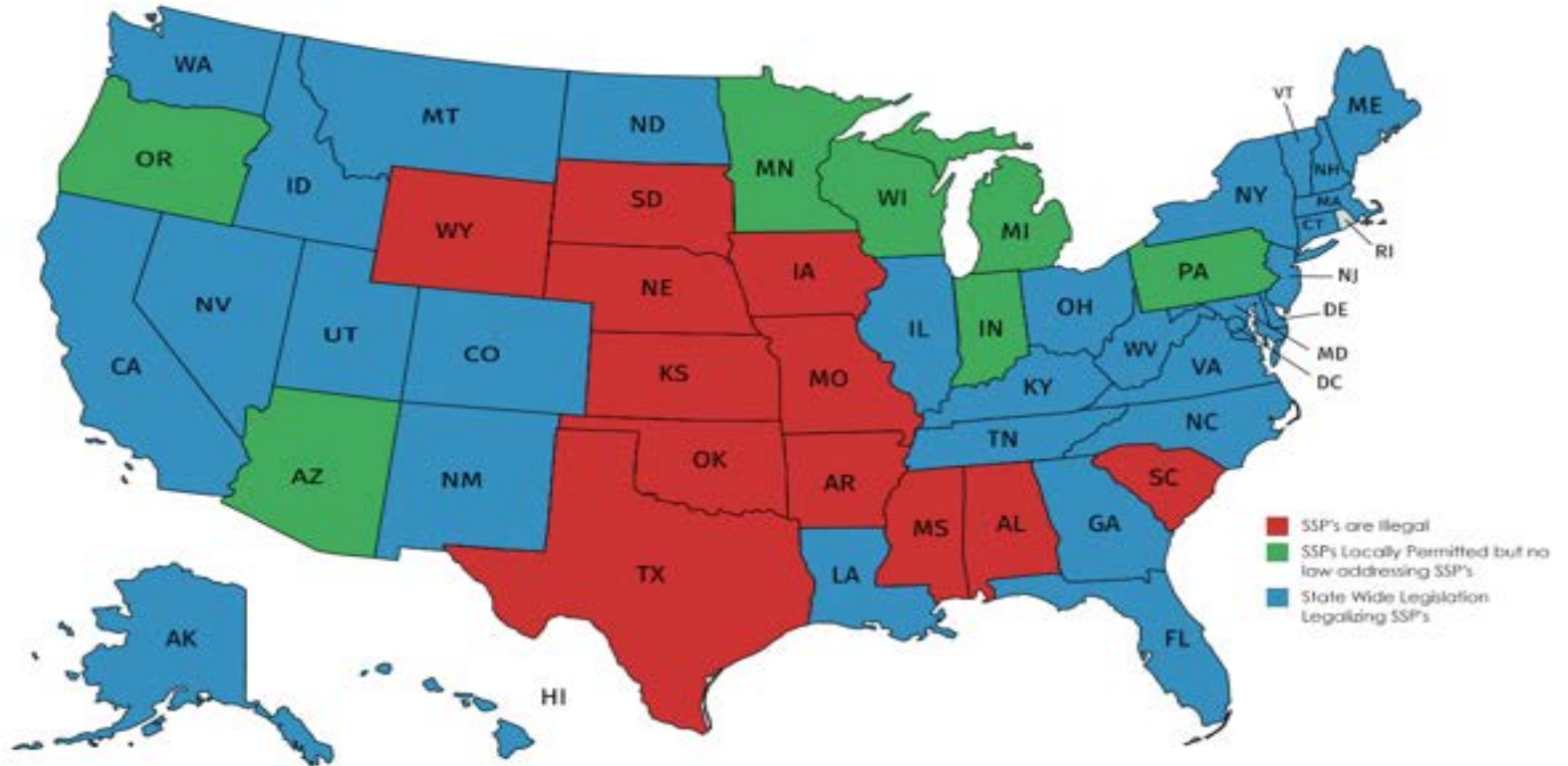
When two similar cities were compared, the one with an SSP had 86% fewer syringes in places like parks and sidewalks.

Counties with Cities with SSPs

- 5/67 Counties have SSPs
- Only 15% of Pennsylvania's population of 12.8 million can access comprehensive harm reduction services.
- Our current legal barriers leave 10 million Pennsylvanians with no viable option for harm reduction services



SSP Authorization in America



Fentanyl Test Strips

[Brown University demonstrates how fentanyl test strips work](#)

- Research from Baltimore, MD, Boston, MA and Providence, RI
 - Test strips allow PWUD to be more informed about the drugs they are buying and using, leading to behavior change and the adoption of increased harm reduction measures, including sharing information among peers.
 - Test strips allow providers to better engage with non-injectors and non-opioid users around overdose prevention and resulted in an increase in naloxone trainings with non-opioid users.
 - PWUD demonstrate a high likelihood of implementing one or more harm reduction strategies when learning that their drugs are positive for fentanyl.



"The Controlled Substances, Drugs, Device, and Cosmetic Act"

The Law



The Language

"Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, **testing**, **analyzing**, packaging, repackaging, storing, containing, concealing, **injecting**, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of this act. It includes, but is not limited to:

11. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injected controlled substances into the human body.

HERO ~~THE HEROIN~~ INITIATIVE

Phase 1

- Host 4 Forums
- Train 200 People
- Special Thanks to University of Pittsburgh School Graduate School of Public Health & Pittsburgh Foundation



Phase 2

- Host 20 Forums
- Train 500 People
- Organize "Hero Teams" with the goal of creating consistent, connected, and deliberate change agents to address the overdose epidemic in their own communities.



Phase 3

- Convene a Train the Trainer
- Host 35 Forums
- Train 750 people
- Support 15



Campaigns



PASS

Pennsylvania Syringe Service

In an effort to expand effective Syringe Service Programs in Pennsylvania, PAHRC has launched the Pennsylvania Syringe Services (PASS) advocacy campaign. Currently, Pennsylvania state law defines syringes as drug paraphernalia. This legislative barrier prevents the operation of syringe service programs throughout the commonwealth.



SRC

Serving Returning Citizens

The Pennsylvania Harm Reduction Coalition seeks to advocate for those most at risk over overdose. No population is more at risk than those leaving correctional facilities.



TOP

Treatment Overdose Prevention

We believe it is the duty of treatment providers to incorporate overdose prevention training in their programs. This crucial, life-saving strategy should be the standard of care and deployed in every treatment center in Pennsylvania.

Why Advocate?



People feel more disillusioned than ever:



Despite apathy, advocacy works!



We are living in a critical and historic time, make the most of it!



People who advocate for the first time are often surprised by the impact they have.

Conference

WWW.PAHARMREDUCTION.ORG



PENNSYLVANIA
HARM REDUCTION COALITION
STATEWIDE CONFERENCE

STAND WITH US.



**STOP THE DEATHS.
STOP THE STIGMA.**
STATEWIDE CONFERENCE

LEARN HOW YOU CAN HELP
REGISTER TODAY WWW.PAHARMREDUCTION.ORG

WHAT IS IT? **A SAFETY-FIRST APPROACH TO THE OVERDOSE EPIDEMIC.**
A TWO DAY CONFERENCE WITH FOUR TRACKS (CLINICAL, MEDICAL, COMMUNITY AND A ONE DAY LAW ENFORCEMENT TRACK) DESIGNED TO BRING THE COMMONWEALTH CUTTING EDGE RESEARCH AND EVIDENCE BASED SOLUTIONS FOR THE OPIOID EPIDEMIC.

WHEN OCTOBER 28TH & 29TH
WHERE SHERATON HOTEL
4250 Lindber Rd.
Harrisburg, PA
WHY Pennsylvania had more overdose deaths than any other state in the nation AND the 3rd highest percentage of people dying per capita. We must expand safety first interventions at every level, community, government and medical institutions.

ONE CONFERENCE - FOUR TRACKS
Over 300 professionals looking to be part of the solution.



CLINICAL **MEDICAL** **COMMUNITY** **LAW ENFORCEMENT**

TO HOSTED BY **Allegheny Health Network** *THE SPONSOR* **Geisinger**

CONTACT US
Devin A. Reaven 717-376-1118
or email Devin@paharmreduction.org

SPECIAL DISCOUNT 28th ONLY



Thank You

Devin Reaves



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www.paharmreduction.org



@Devin_Reaves

