



National Commission
on COVID-19 and
Criminal Justice

COVID-19 and Opioid Use Disorder

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Highlights

- + **Early data suggest the COVID-19 pandemic has halted progress on reducing the incidence of substance use disorders (SUDs) and overdose deaths.**
 - More than 40 states have reported increases in opioid-related fatalities since governors and local officials began implementing pandemic-related responses.
- + **COVID-19 has significantly altered the delivery of SUD treatment in the justice system.**
 - Mandatory lockdowns, restrictions on movement, social distancing guidelines, orders limiting access to facilities for non-essential workers, and the absence of in-person treatment have created gaps in the system's ability to identify and monitor the needs and legal requirements of people with SUDs, and to intervene when they are in distress.
- + **As justice system officials adapt to a COVID-constrained environment, some are using telemedicine to ensure continuation of treatment and counseling in both community and correctional settings.**
 - That said, many are unable to access needed technology and some concerns remain about efficacy and suitability of such innovations.

COVID-19 and Opioid Use Disorder

The drug overdose epidemic that swept through the United States over the past decade commanded the attention of public health providers, researchers, criminal justice practitioners, and policymakers at the federal, state, and local levels. Because of its severity and associated mortality rates, the epidemic became a priority among leaders across multiple sectors. As collaboration across these sectors matured, researchers and practitioners began to develop evidence-informed strategies to slow the spread of the epidemic. But the progress that was underway appears to have abruptly stopped when the COVID-19 pandemic emerged and fundamentally altered many aspects of American life.

PRE-COVID-19 PANDEMIC

The U.S. opioid crisis emerged in the late 1990s as pharmaceutical companies produced and doctors began to prescribe opioid pain relievers at significantly higher rates. The increase in the availability of prescription opioids led to an increase in addiction, overdoses, and deaths beginning in the early 2000s. By the mid 2010s, as the addictive characteristics and consequences of legal opioids became more apparent, restrictions on prescriptions and other measures led to the increased use of heroin and other illicit opioids, causing the number of overdoses and deaths to grow significantly.

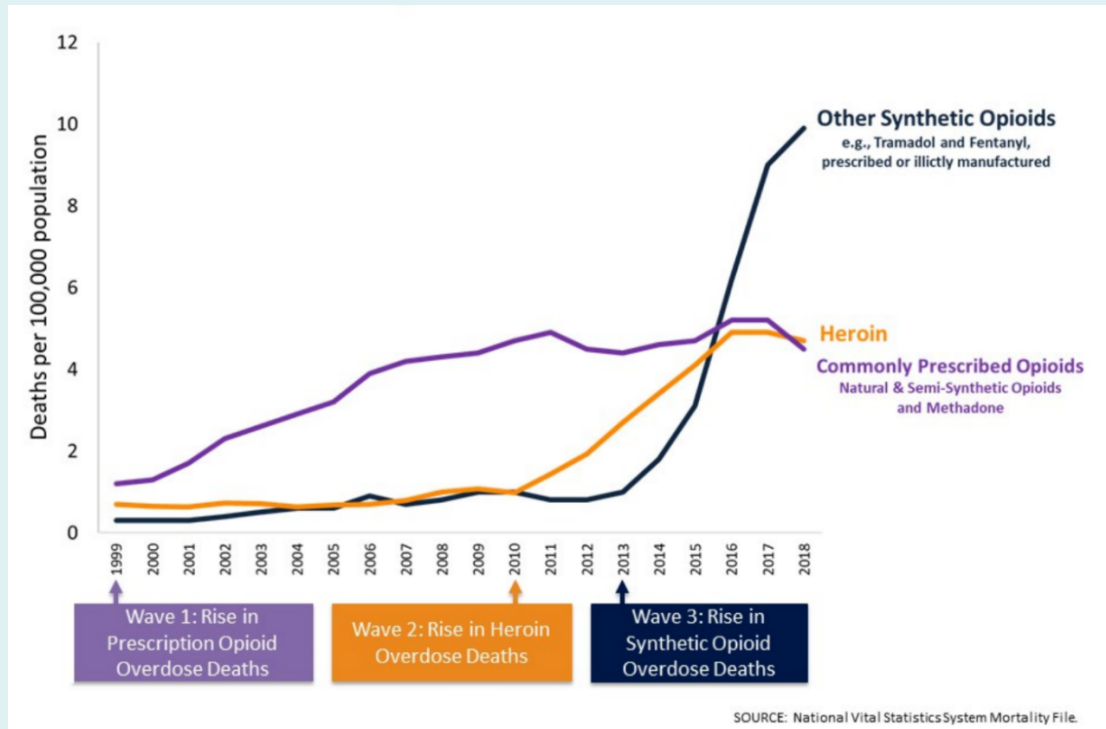
Recent overdose deaths have been attributed to the intentional or unintentional use of fentanyl. Fentanyl was first synthesized in 1960 in Belgium and by 1968 was being prescribed in the U.S.¹ Since the late 1970s, fentanyl, with a potency level 50 to 100 times that of morphine, has been sold as a heroin substitute or mixed with other drugs, resulting in an increase in fentanyl-related overdose deaths. Between 2017 and 2018 there was a 10% increase in overdose deaths involving synthetic opioids, including fentanyl.² In 2018, more than 31,000 people died from an overdose involving synthetic opioids.³

¹ [https://www.ipain.org/article/S1526-5900\(14\)00905-5/pdf](https://www.ipain.org/article/S1526-5900(14)00905-5/pdf) (Stanley, 2014)

² <https://www.cdc.gov/drugoverdose/opioids/fentanyl.html>

³ Wilson N, Kariisa M, Seth P, et al. [Drug and Opioid-Involved Overdose Deaths—United States, 2017-2018](#). MMWR Morb Mortal Wkly Rep 2020; 69:290-297.

FIGURE 1: THREE WAVES OF THE RISE IN OPIOID OVERDOSE DEATHS



Source: Centers for Disease Control, <https://www.ncjrs.gov/pdffiles1/bja/205621.pdf>

TREATMENT FOR OPIOID USE DISORDER

Treatment options for those suffering opioid use disorder include behavioral health interventions and medications like buprenorphine, methadone, and naltrexone. These medications have been used to help reduce opioid cravings and are often paired with counseling.⁴ This approach is referred to as Medication-Assisted Treatment (MAT).

A large body of research has confirmed that these medications are effective in treatment retention and reducing opioid use and overdose deaths.⁵ For example, rates of opioid

⁴ <https://www.samhsa.gov/medication-assisted-treatment/medications-counseling-related-conditions>

⁵ Connery HS. Medication-assisted treatment of opioid use disorder: Review of the evidence and future directions. *Harvard Review of Psychiatry* 2015;23(2):63–75. Egli, N., Pina, M. Christensen, P.S., Aebi, M., and Killias, M. Effects of Drug Substitution Programs on Offending Among Drug Addicts. *Campbell Systematic Reviews* 2009 5(1):1-40. Mattick, R.P., Breen, C., Kimber, J., & Davoli, M. Buprenorphine Maintenance Versus Placebo or Methadone Maintenance for Opioid Dependence. *Cochrane Database of Systematic Review* 2014;2. Mattick, R.P., Breen, C., Kimber,

abstinence for individuals on these medications ranged from 1.5 times to almost 8 times greater than those taking a placebo or participating in a detoxification program.⁶ Prior research has also shown that retention in methadone and buprenorphine treatment programs is associated with a reduction of overdose-related deaths. For example, the risk of a fatal drug-related overdose was two times greater for people receiving psychological therapy alone versus those in a community-based treatment program that provided methadone or buprenorphine (with or without psychological support).⁷ Another study found that the odds of death were 52 to 75 percent higher for those receiving treatment without buprenorphine in comparison to those in treatment but not receiving the drug.⁸

Access to medications used in these programs is heavily regulated, and physicians must undergo training and obtain a waiver from the Drug Enforcement Administration (DEA) in order to prescribe them. It is estimated that by 2017 only 10 percent of physicians had obtained waivers to prescribe buprenorphine.⁹ While there has been an increase in the number of methadone clinics in the U.S. (254 were added between 2014 and 2018), states limit the number of clinics they license due to concerns regarding long lines of people waiting for treatment, the stigma associated with methadone treatments, and the potential for medication to be diverted to illicit use.¹⁰

TREATMENT OPTIONS AMONG JUSTICE-INVOLVED POPULATIONS

SUDs among the justice-involved population are of particular concern. While addiction and overdose rates are at epidemic levels in the general population, an estimated 65% of

J., and Davoli, M. Methadone Maintenance Therapy Versus No Opioid Replacement Therapy for Opioid Dependence. *Cochrane Database of Systematic Reviews*, 2009;3. Schuckit, M.A. Treatment of Opioid-Use Disorders. *The New England Journal of Medicine* 2016;357-368.

⁶Fudala, P.J., Bridge, T.P., Herbert S., et al. Office-based treatment of opiate addiction with a sublingual-tablet formulation of buprenorphine and naloxone. *New England Journal of Medicine* 2003; 349:949-958.; Krupitsky, E., Nunes, E.V., Ling, W., Illeperuma, A., Gastfriend, D.R., Silverman, B.L. Injectable extended-release naltrexone for opioid dependence: a double-blind, placebo-controlled, multicentre randomized trial. *Lancet*. 2-11; 377: 1506-1513.; Mattick, R.P., Breen, C., Davoli, M. Methadone maintenance therapy versus no opioid replacement therapy for opioid dependence. *Cochrane Database of Systematic Reviews* 2009;3. Weiss, R.D., Potter, J.S., Fiellin, D.A. et al. Adjunctive counseling during brief and extended buprenorphine-naloxone treatment for prescription opioid dependence: a 2-phase randomized controlled trial. *Archives of General Psychiatry* 2011; 68: 1238-1246.; Woody, G.E., Poole, S.A., Subramaniam, G., et al. Extended vs short-term buprenorphine-naloxone for treatment of opioid-addicted youth: a randomized trial. *Journal of the American Medical Association* 2008; 68:1238-1246.

⁷ Pierce M, Bird SM, Hickman M, Marsden J, Dunn G, Jones A, Millar T. Impact of treatment for opioid dependence on fatal drug-related poisoning: A national cohort study in England. *Addiction* 2016; 111(2):298-308.

⁸ Clark, R.E., Samnaliev, M., Baxter, J.D., Leung, G.Y. The Evidence Doesn't Justify the Steps By State Medicate Programs To Restrict Opioid Addiction Treatment with Buprenorphine. *Health Affairs* 2011; 30 (8): 1425-1433.

⁹ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4291261/>

¹⁰ <https://www.fiercehealthcare.com/practices/only-10-eligible-primary-care-providers-can-prescribe-buprenorphine-to-treat-patients-for>; McBain, R.K., Dick, A., Sorbero, M., and Stein, B. Growth and Distribution of buprenorphine-Waivered Providers in the United States, 2007-2017. *Annals of Internal Medicine* 2020.

people in state and federal prison may have some type of SUD.¹¹ The management of individuals who have addiction problems or are suffering withdrawal is difficult in a correctional environment. In 2018, approximately 300 of the 3,200 local jails and 1,900 state prisons in the U.S. offered addiction medication to inmates.¹² Research has found that providing MAT to people in prison can reduce mortality rates by 74%.¹³ Despite such findings, accessible, evidence-based treatment in prison is rare, and when treatment is available, it is often inadequate.

Reentry success is more complicated for people with SUDs, who may need long-term support to avoid relapsing upon release but often have difficulty obtaining it. One recent study examining Rhode Island's MAT program in its prison system demonstrates the post benefits of such post-release treatment. In 2016, the Rhode Island Department of Corrections implemented a new screening and MAT treatment protocol that provided ongoing MAT treatment after release from prison. Comparing overdose mortality rates between 2016 and 2017, researchers found a 60.5% reduction in mortality among the recently incarcerated.¹⁴ While these results are promising, few facilities offer such programs and continuity of care for recently released individuals is a significant barrier to successful outcomes.

Evidence-based treatment is more accessible for the approximately 4.5 million Americans on probation or parole. Research shows that a majority of those on probation struggle with an SUD.¹⁵ Treatment services for probationers are often provided in conjunction with supervision conditions and through one of the following methods: residential, outpatient, halfway house, day reporting center.¹⁶

Another important avenue to treatment among the justice-involved population is diversion to a drug court program. There are more than 3,000 drug or other specialty, problem-solving, or accountability courts in the country that address juveniles and adults. One component of such courts is the collaborative relationship between the courtroom actors, including direct interactions between the judge and the drug-court participant.¹⁷

¹¹ <https://www.drugabuse.gov/publications/drugfacts/criminal-justice>

¹² <https://apnews.com/article/c594ad1b9a3a4dcd8b3bcf30bc1a4157>

¹³ Larney, S., Gisev, N., Farrell, M., Dobbins, T., Burns, L., Gibson, A., Kimber, Jo., Degenhardet., L. Opioid Substitution Therapy as a Strategy to Reduce Deaths in Prison: Retrospective Cohort Study. *BMJ Open* 2014; 4:1-4. <https://bmjopen.bmj.com/content/4/4/e004666>

¹⁴ Green, T.C., Clarke, J., Brinkley-Rubinstein, L., Marshal, B.D.L., Alexander-Scott, N., Boss, R., Rich, J.D. Post incarceration Fatal Overdoses After Implementing Medications for Addiction Treatment in a Statewide Correctional System. *JAMA Psychiatry* 2018; 75(4):405-407.

¹⁵ <https://www.ncjrs.gov/pdffiles1/nij/235637.pdf>

¹⁶ <https://www.ncbi.nlm.nih.gov/books/NBK64141/>

¹⁷ <https://www.ncjrs.gov/pdffiles1/bja/205621.pdf>

POST-COVID-19 PANDEMIC

The pandemic has significantly altered the delivery of SUD treatment throughout the criminal justice system. Mandatory lockdowns, restrictions on movement, physical distancing guidelines, and orders limiting employment for non-essential workers have resulted in significant gaps in the system's ability to identify individuals with SUDs and to intervene when they are in distress or in need of services.

At the front end of the system, COVID-19 has caused police to reduce and in some cases eliminate interactions with individuals whose behavior would have resulted in a law enforcement encounter – and potential arrest – before the pandemic. In the judicial system, courthouses have been closed and some proceedings have been shifted to web-based platforms or the telephone, affecting drug court programs. Probation and parole officers have restricted their interactions with clients; many now conduct supervision virtually or through telephonic check-ins. Outpatient treatment facilities are struggling to remain open and provide needed services to clients. While many facilities have closed or suspended services, other community-based organizations have stayed open but have dramatically reduced the number of in-person visits and have now provide certain services (e.g., therapy sessions) by telephone or video.¹⁸

INITIAL CHANGES IN TREATMENT SERVICES FOR SUBSTANCE USE DISORDERS

The Increasing Role of Telemedicine

Telemedicine is the practice of providing medical services through telephone-based support, mobile apps, web-based treatment supports, and video conferencing. The commonly recognized benefits of telemedicine include expanded access to medical treatment and support and greater flexibility for patients. Importantly, research on telemedicine for addiction treatment also supports its potential effectiveness. A systematic review of substance use, treatment retention, and feasibility of SUD treatment via video conference concluded that telemedicine was an encouraging option, especially when treatment retention was an important outcome.¹⁹

¹⁸ https://www.washingtonpost.com/health/people-in-addiction-treatment-are-losing-crucial-support-during-coronavirus-pandemic/2020/03/26/5698eae0-6ac6-11ea-abef-020f086a3fab_story.html \; <https://www.allied-services.org/news/2020/may/allied-services-outpatient-rehab-centers-to-reop/>

¹⁹ <https://www.hazeldenbettyford.org/education/bcr/addiction-research/telehealth-addiction-treatment>; Lin, L., Casteel, D., Shigekawa, E., Weyrich, M, Roby, D., & McMenamin, S. interventions for substance use disorders: A systematic review. *Journal of Substance Abuse Treatment* 2019; 101:38-49. doi.org/10.1016/j.sat.2019.03.007

Despite such findings, the use of telemedicine is limited and additional research and evaluation are needed. According to a 2018 study, while the number of telemedicine visits for SUDs in one large national health plan increased sharply between 2010 and 2017 (from 97 to 1,989 visits), the total still represented only 1.4% of the total telemedicine visits over the time period. By comparison, telemedicine visits related to mental health treatment constituted 34.5% of all visits.²⁰

One contributing factor to the limited use of telemedicine for SUD treatment is the strict regulation of forms of treatment, like MAT. Both state and federal agencies tightly regulate who can prescribe MAT-related medications and how these medications can be administered. For example, the 2008 Ryan Haight Online Pharmacy Consumer Protection Act (the Haight Act) restricts physicians from remotely prescribing controlled substances through telemedicine unless there is first an in-person examination. Exemptions to this standard are allowed in the case of a public health emergency, which was declared by the Secretary of Health and Human Services on January 31, 2020 in response to COVID-19.

Since the pandemic led to stay-at-home orders across the country, many treatment programs across the U.S. have been working to transition from in-person to virtual meetings. In turn, state and federal agencies have responded to the recent increase in overdose reports by loosening regulations to provide clients in treatment programs greater access to services and to permit more drug counseling via telemedicine. The federal Substance Abuse and Mental Health Services Administration has also loosened restrictions on methadone and buprenorphine prescriptions.²¹

Despite such changes, many people remain unable to access the technology needed to enjoy the benefits of telemedicine, and concerns remain about continuity of care and its costs, availability, efficacy, and suitability for certain patients.

Impact on the Justice-Involved Population

The justice-involved population has been affected by the pandemic in multiple ways. In this new environment, the provision of treatment and medication to address SUDs has become significantly more challenging and the conditions that often drive individuals to self-medicate have become far more prevalent. Physicians and behavioral health specialists report increases in stress, isolation, anxiety, and depression.²² Overall, experts

²⁰ Huskamp, H., Busuch, A., Souza, J., Uscher-Pines, L., Rose, S., Wilcock, A., Landon, B. & Mehrota, A., How is telemedicine being used in opioid and other substance use disorder treatment? *Health Affairs* 2018 37(12):1940-1947.

²¹ <https://www.samhsa.gov/sites/default/files/faqs-for-oud-prescribing-and-dispensing.pdf>

²² Brooks SK, Webster RK, Smith LE, et al. The psychological impact of quarantine and how to reduce it: rapid review of the evidence. *Lancet* 2020; 395:912-920.

warn that the stress of the pandemic, combined with new barriers to treatment, have greatly elevated the risk of SUDs both inside and outside the criminal justice system.

Early overdose and relapse reports seem to confirm these fears. For example, a national laboratory service reports an increase in positive drug tests for non-prescribed fentanyl (32%), methamphetamine (20%), and cocaine (10%), and, according to the Overdose Mapping and Application Program, suspected drug overdoses have increased 18% during the pandemic.²³

Additionally, the effects of the pandemic among those with SUDs are not equally distributed. Early reports indicate that people of color, who are more likely than White people to lack access to affordable health care, including SUD treatment, are at a greater risk of opioid overdose.²⁴

One notable consequence has been the imposition of enhanced restrictions intended to reduce the introduction or spread of COVID-19 within correctional facilities. These changes affect not only the delivery of certain SUD medications but also the continuation of important research. According to the National Institute of Drug Abuse, current research efforts examining the effectiveness of MAT in institutions has stopped because facilities are restricting access and researchers cannot recruit patients for research trials. In addition, medical needs created by the pandemic in the prison and jail environment have diverted the health profession's attention away from the SUD epidemic.²⁵

Individuals on probation or parole, or who are participating in drug courts that require engagement in treatment programs, are under particular strain as agencies work to transition from face-to-face to remote services. Many people on supervision lack access to the technology needed for virtual appointments, and thus face interruptions in treatment and other impacts likely to result in adverse health effects.

REMAINING AND EMERGING PROBLEMS

As policymakers, healthcare providers, and justice system stakeholders continue to adapt to emerging health issues related to the pandemic, local and state agencies are facing significant financial crises. The business sector, too, is enduring substantial fiscal impacts, and substance abuse treatment providers are not exempt from the pain.

A recent survey of New Hampshire substance abuse and recovery providers revealed more than \$250,000 in revenue losses for the month of April. This survey also found that

²³ <https://www.millenniumhealth.com/news/signalsreportcovid/>

²⁴ <https://qz.com/1892213/covid-19-put-blacks-and-hispanics-at-risk-of-opioid-overdoses/>

²⁵ <https://heal.nih.gov/news/news/2020-rx-summit>

while treatment providers were purchasing technology to provide telemedicine services, some were laying off staff to save money. In general, the revenue losses and increased costs during the pandemic are leading some providers to limit treatment capacity and, in turn, delay delivery of vital SUD treatment services.²⁶

CONCLUSION

The lack of adequate provision of SUD treatment, and in particular MAT treatment, for justice-involved individuals has long been a challenge, and it has only been exacerbated by the pandemic. In response, correctional leaders and community-based organizations have tried to adapt by providing access to services through telemedicine. In addition, state and federal agencies have moved to ease the restrictions on access to OUD treatment drugs like naltrexone, methadone, and buprenorphine. However, as reports of overdoses and overdose deaths increase, many questions remain regarding the extent to which justice-involved individuals are receiving necessary services and medications.

The criminal justice system is facing dramatic challenges due to the pandemic and they're coming at a time when it had just begun to develop strategies to address the SUD epidemic. The restrictions in the carceral environment have adversely affected the ability to deliver effective SUD treatment, and the already-strained correctional health field is finding it nearly impossible to attend to both the impact of the pandemic on the incarcerated population and the delivery of treatment services to those suffering from SUD.

²⁶ <https://new-futures.org/sites/default/files/sites/default/files/uploads/SUD%20Survey%20-%20COVID%2019%20Summary%207.15.20%20FINAL.pdf>