Pre-Arrest Diversion (PAD): Emerging Issues and Example Policy Responses

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Agenda

• The opioid epidemic
• Pre-arrest diversion (PAD): A public health solution for improved public safety
• Emerging issues, example policy responses
• The Police, Treatment and Community Collaborative (PTACC)
The Opioid Epidemic
Drug Overdose (OD)
Deaths 1980-2016

- <10,000 in 1980 → almost 60,000 in 2016
- Increased by ~25% in 2016
- Leading cause of death among Americans under 50

Source: Katz, 2017
Drug Deaths Surpassed Gun and HIV/AIDS Deaths in 2015

Source: Reichart 2017 (2015 CDC data)
Opioid Deaths Continue Dramatic Rise

National Overdose Deaths
Number of Deaths from Opioid Drugs

Source: National Institute on Drug Abuse

Source: NIDA, 2017
Opioid Deaths Could Top 650K Over Next Decade

Opioid overdose deaths: 10 projected scenarios.

Source: Blau, 2017
Pre-Arrest Diversion: A Public Health Solution for Improved Public Safety
Variety of Terms for Pre-Arrest Diversion

- Deflection
- Pre-arrest diversion (PAD)
- Pre-booking
- Co-responder
- Pre-booking
- Crisis Intervention Teams
- Police diversion
- Crisis/Triage centers
- Police assisted diversion
- Law enforcement encounter
- Law enforcement assisted diversion (LEAD)
- No arrest diversion

A Third Way for Law Enforcement
1) Arrest or 2) Release 3) Divert (New!)
Promises of Pre-Arrest Diversion

- Reduced crime
- Improved public safety (real and perceived)
- Reduced drug use
- Lives saved, lives restored
- Building police-community relations
- Reduced burden on criminal justice to solve public health and social challenges
- Building police-public health/behavioral health relations
- Correct movement of citizens into/away from the justice system
- Cost savings
- “Net-narrowing”
- Keeping families intact
Opportunities for Law Enforcement

• Evidence-based substance use treatment in the least restrictive environment (in the community rather than jail)

• Every point from pre-arrest to prosecution to adjudication provides an opportunity to divert someone to evidence-based treatment

• Intervention at the earliest point possible

• Law enforcement response to mental health crises as a proof-of-concept for similar response to opioid OD and crises
Emerging Issues and Example Policy Responses
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• Newly emerging field
• States exploring ways to bolster pre-arrest diversion in policy related to:
  – Law enforcement guidance and protections
  – Authorization and evaluation
  – Funding and treatment capacity
  – Healthcare and treatment financing via insurance/payers/MCOs
  – Connection to care following OD reversal
• Responses presented without endorsement of any particular approach
**Law Enforcement Guidance and Protections**

**Issue:** No formal protection or guidance for law enforcement with respect to pre-arrest diversion, hindering implementation of PAD efforts

- Provide immunity from liability in future cases of offenses committed by diverted individuals
- Articulate diversion protocols (e.g., SB 120 in KY, 2017):
  - Authorized law enforcement agencies to create a program to refer persons who voluntarily seek assistance to treatment
  - Specified that a person who voluntarily seeks assistance from law enforcement shall not be placed under arrest or prosecuted for possession, paraphernalia, etc.
Authorization and Evaluation

**Issue**: Program evaluation is critical to ensuring effective and fair diversion implementation (may require a mandate and funding)

- Legislative activity related to oversight of efforts to ensure best practices
  - HB 2 (NM, 2017): Authorized funds to evaluate Santa Fe LEAD
  - SB 843 (CA, 2016): Authorized $15 million to create and evaluate LEAD pilot sites
  - SB 120 (KY, 2017): Authorized self-referral diversion programs
  - AB 3744 (NJ, 2016): Authorized law enforcement assisted addiction and recovery programming
  - CT 7052 (2017): Convened a working group to examine existing programs, identify barriers they face, and report on feasibility of statewide implementation
Funding and Treatment Capacity

**Issue**: Challenges accessing existing treatment capacity and building new capacity act as barriers to rapidly linking people to treatment

- Funding to access, align, and build community treatment capacity and tighten connections with diversion programs at:
  - *Intercept 0*: Pathways to treatment independent of law enforcement
  - *Intercept ½*: Prevention deflection (treatment on demand)
  - *Intercept 1*: Intervention deflection (treatment on demand)
Funding and Treatment Capacity

**Issue:** Without incentives, law enforcement agencies may not prioritize diversion

- Incentivize law enforcement diversion programs by tying local, state, or federal funding to diversion metrics (similar to arrest metrics and funding)

**Issue:** Employers challenged by limited workforce

- Authorize or mandate PAD to prevent criminal records and address substance use disorders, as a workforce development strategy (e.g., employee retention, strong labor market pools, etc.)
Healthcare and Treatment Financing via Insurance/Payers/MCOs

**Issue:** Prior authorization and/or medical necessity requirements imposed by managed care organizations (MCOs) for behavioral health services may impede swift connection to treatment, especially crucial after OD reversal

- Removal of prior authorization requirements for behavioral health treatment
  - HB 1 (IL, 2016) required removal of prior authorization for medication-assisted treatment (MAT)
  - Several MCOs (Cigna, Anthem, and Aetna) have removed prior authorization requirements for MAT
Healthcare and Treatment Financing via Insurance/Payers/MCOs \textit{cont.}

**Issue:** Different standards used by various MCOs/payers to define medical necessity can impede ability to facilitate access to treatment

- Require MCO/payers use a specific, universal set of standards
  - HB 1 (IL, 2016) required MCOs to use the medical necessity standards set by the American Society of Addiction Medicine (ASAM) for substance use
Connection to Care Following OD Reversal

**Issue:** Individuals discharged from the ER following an opioid OD reversal without connection to further medical care or substance use treatment. *Following a period of abstinence during an ER stay, individuals are highly susceptible to subsequent/repeat OD.*

- Temporary involuntary commitment following opioid OD reversal, to keep individuals safe and to allow time for linkage to care
  - Include opioid OD as criterion for involuntary commitment within existing statute
  - Propose new/amend existing legislation to specifically allow for involuntary commitment post-OD
  - Post-OD involuntary commitment that parallels policy, practices, procedure, and protections of mental health involuntary commitment
Connection to Care Following OD Reversal cont.

• Background info on involuntary commitment
  – Admission of individual against his/her will to treatment
  – Involuntary commitment for mental health crisis when someone is a danger to him/herself or others
  – 37 states and D.C. have enacted involuntary commitment statutes applying to individuals with substance use disorders and/or alcoholism
The NATIONAL Voice of the Pre-Arrest Diversion Field
PTACC Collaborative: Our Mission, Purpose, and Cornerstone

• **Mission** – To strategically enhance the quantity and quality of community behavioral health and social service options through engagement in pre-arrest diversion

• **Purpose** – To provide NATIONAL vision, leadership, advocacy, and education to facilitate the practice of pre-arrest diversion across the US

• **Cornerstone** – PTACC is open-source, open to any and all. PTACC is “non-denominational” as to which model/brand of pre-arrest diversion is appropriate for a jurisdiction; each community must determine which approach(es) solves its problem, fits the local situation, and can be addressed through current behavioral health capacity.
PTACC National Partners

Indicates PTACC National Founding Partner
PTACC National Partners

- Association of Prosecuting Attorneys
- Center for Court Innovation
- CSH
- ENSO Recovery
- Faces & Voices of Recovery
- Gaudenzia
- JBS International
- Law Enforcement Action Partnership
- National League of Cities
- NACA
- Origins
- Pretrial Justice Institute

★ Indicates PTACC National Founding Partner
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- QRT National
- Balonick & Associates
- NAMSDL
- SAFE Project
- GunBail
PTACC “Open-Source” Resources:

• PTACC Visual 5 Pathways to Treatment – The first visual depiction of all known deflection and pre-arrest diversion pathways

• PTACC Core Measures of Pre-Arrest Diversion – Recommended metrics for sites to use covering police, treatment, community, and race.

• PTACC 11 Guiding Principles for Behavioral Health Pre-Arrest Diversion – Currently being aligned with CARF accreditation standards.

• PTACC Pre-Arrest Diversion Presentations – PAD Basics, PAD Policy, Naloxone Plus

• PTACC National Policy and Legislation – In development

• PTACC Housing & Pre-Arrest Diversion – In development
Questions & Thank You

Please contact for further information:

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References


