The Overdose Crisis in the United States
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Syllabus
• Updated syllabus online is SUBJECT TO CHANGE!
• Class 5 slides now posted (titles are hyperlinked)
• Final Paper proposals are now back
• First draft of Public Comment due this week!


Final Paper
• 16-18 pages in length, BlueBook footnotes. (50% of grade)
• A proposal outlining the topic significance, key questions, expected outcomes and preliminary sources will be due before class TODAY
• The final paper will be due by 3pm on Tuesday, August 24, 2021

Public Comment Brief
• Topic: “Phased Approach to the Resumption of Cruise Ship Passenger Operations 2021-09094” (Centers for Disease Control and Prevention)
• Review the docket announcement and related materials for a Proposed Rule. Consult relevant legal, regulatory, and public health material to educate yourself about the context and implications for the proposed action.
• A structured “public comment” brief (6-8 pages) will be submitted to the agency by midnight on Wednesday, June 30, 2021 (25% of grade)
• A draft is due to me in Word format by June 16th so I can provide feedback before submission!
• Instructions are now posted on the syllabus page

Robinson v. California (1962)
Background and Holding

Kilmon/Cruz v. Maryland (Md. 2006)
Background and Holding
Thoughts on videos or readings?

Opioid Overdose Basics

- Dosage/Bioavailability
  - Depends on pharmacokinetics of specific agent
  - Absorbed from GI tract, nasal mucosa, lungs, subcutaneous, intramuscular, IV route
  - Multiple drug toxicity
  - Respiratory depression
    - Increase in blood CO2 level
    - Typical coma onset: 1-3 hours
  - Fentanyl is a game-changer

Opioid Overdose: Risk Factors

- Multi-drug toxicity, e.g. benzos and alcohol (Piper 2007)
- Long-acting, especially with non-medical route
- Fluctuating quality (illicit market)
- Recent abstinence, as upon re-entry from correctional or residential treatment settings (Binswanger et al. 2007)
- Other health conditions
  - Increased tolerance, male, 18-49, long-term use (Sporer et al. 2006)
  - Protective role of naloxone and agonist therapy

The “Opioid Epidemic”

Three phases
1. Prescription drugs
2. Heroin
3. Illicitly-manufactured fentanyl

National Overdose Deaths
Number of Deaths involving All Drugs

Source: National Center for Health Statistics, CDC Wonder

National Overdose Deaths
Number of Deaths involving Opioid Pain relievers (excluding non-methadone synthetics)

Source: National Center for Health Statistics, CDC Wonder
Not Just Opioids...

- Multi-drug toxicity, e.g. benzodiazepines and alcohol (Piper 2007)
- Non-medical administration
- Long-acting, especially with non-medical route
- Fluctuating quality (black market)
- Recent abstinence, e.g. in newly-released inmates or those re-entering from residential treatment (Binswanger et al. 2007)
- Other health conditions
- Increased tolerance, male, 18-49, long-term use (Sporer et al. 2006)

Addiction is not the only risk factor for overdose.

Fentanyl overdose deaths

In 2017, total overdoses involving fentanyl were most common in the northeast.

Opioid Epidemic

Average annual opioid-related death rate per 100,000 people (CDC WONDER)

The report states, representing average annual rates of opioid-related deaths across five year bands, demonstrates the increase in both the spread and intensity of the problem across Massachusetts.
Civil Commitment for Substance Use Disorder

Involuntary civil commitment
- Allows family members, police, others to petition a court to civilly commit an individual with substance use disorder
- Heterogeneity in procedure, legal authority, and utilization
- Rhetorical shift away from criminal justice
- Emerging emphasis in opioid crisis response

“Sectioning” as Opioid Crisis Response
- Popularized by parent support groups, police, politicians
- State policymakers see it as a key tool
- Proposed 72 hour holds
- Proposed expansion in scope of petitioners
- Standing order model
- Expansion of physical restraints

IndividualsCommitted as a Proportion of Petitions Filed to Civilly Commit Individuals for Substance Use Disorder in Massachusetts under Sec. 35
The CARE Act:
- Combatting Addiction
  - Commission to study MAT (methadone, buprenorphine, injectable naltrexone)
- Accessing Treatment
  - Increased treatment in jails, prisons, and emergency rooms
- Reducing Prescriptions
  - Partial fills for first-time opioid prescriptions
- Enhancing Prevention
  - Standing order for opioid antagonists (e.g., Narcan)

Reformulations of Opioids and Unintended Consequences

1995

2010

Criminalization and the War on Drugs
Drug dealers would face homicide charges after overdose under Senate heroin package

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, and also to eliminate their trail of death as a predicate disqualifier 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 re-users. Therefore, a re-user who shares the drugs with the victim and who does not intend to follow the suspect, but otherwise, is also a disqualifier. And now the other person, he or she will be able to avoid prosecution for homicide by sale or use of an opioid controlled substance, as long as they admit to a lesser felony because it still is a distribution.

Drug-Induced Homicide

Drug-Induced Homicide (D IH) Charges by Year (1974-2017)

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>1974</td>
<td>56</td>
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<tr>
<td>1975</td>
<td>77</td>
</tr>
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<td>1976</td>
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<td>152</td>
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<td>1980</td>
<td>172</td>
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<tr>
<td>1981</td>
<td>194</td>
</tr>
<tr>
<td>1982</td>
<td>216</td>
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</tbody>
</table>

Most Active States in Pursuing Drug-Induced Homicide Charges

<table>
<thead>
<tr>
<th>State</th>
<th>Number of Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>NY</td>
<td>345</td>
</tr>
<tr>
<td>CA</td>
<td>265</td>
</tr>
<tr>
<td>TX</td>
<td>180</td>
</tr>
<tr>
<td>FL</td>
<td>150</td>
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<tr>
<td>GA</td>
<td>115</td>
</tr>
</tbody>
</table>

Median Sentencing by Accused Race

- Median Sentencing for Accused: 120 months (10 years)
- Median Sentencing for Non-Accused: 50 months (4 years)

Data based on analysis of news sources.
Naloxone Access

Short Training
1. Signs and symptoms
2. Call 9-1-1
3. Administer naloxone

Naloxone Access

• Harm reduction programs
• Parents' groups
• Co-prescribing at point of care
• Pharmacies
• Correctional facilities
• Police and fire departments

Naloxone Access

• Robust safety profile
• Not habit-forming, toxic, or “harmful”
• Rare side-effects (primarily withdrawal, “unmasking”)
• Laypersons able to properly diagnose and treat, without medical supervision

Multiple Policy Failures

• Cost
• Intellectual property
• Liability, disinhibition/moral hazard
• Health insurance coverage
• Life insurance concerns
Implementation Failures

Naloxone Distribution Breakdown in Rhode Island, 2015 to 2018

<table>
<thead>
<tr>
<th>Year</th>
<th>Community Organizations</th>
<th>Pharmacies</th>
<th>Hospitals</th>
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<tbody>
<tr>
<td>2015</td>
<td>992</td>
<td>3,333</td>
<td>2,564</td>
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<tr>
<td>2016</td>
<td>1,553</td>
<td>2,564</td>
<td>713</td>
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<tr>
<td>2017</td>
<td>8,616</td>
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<tr>
<td>2018</td>
<td>8,616</td>
<td>566</td>
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</tr>
</tbody>
</table>

Source: RI Dept of Health, 2019

15 Minute Break

#PHLaw on Twitter

- Engage with course materials and current topics in patent law and policy by joining the conversation on Twitter!
- Counts toward participation!
- Be sure to tag the following in your tweets:
  - @DrSinhaEsq
  - #PHLaw
- Optional additional tags: @PHLawWatch, @PHLR_Temple, @NetworkforPHL, #PublicHealthLaw, #LawTwitter
- Student tweets will be highlighted at the beginning of each class
- If you want help getting started on Twitter, schedule time during office hours

#PHLaw

Top News

‘A Momentous Day’: New York and California Lift Most Virus Restrictions

Officials made the move after more than 70 percent of adults in both states had received a first dose of the coronavirus vaccine.

U.S. News 64,000 Views, Deaths Despite Progress From Vaccines

Daily deaths have dropped considerably since their January peak, with about 70 percent of the population now fully vaccinated.
#PatentLawMemes

35 USC 101

SO HOT RIGHT NOW

#PHLaw

Many Post-Covid Patients Are Experiencing New Medical Problems, Study Finds

#PHLaw

Dr. So and So

#PHLaw

“Essential” workers have been and continue to risk their lives so we can eat, yet they still remain unprotected under the Biden administration. See my suggestions about what should be done. (A thread)

#PHLaw

Read the latest issue of Judicial Trends in Public Health, our monthly newsletter that reports on significant cases in public health law and policy from the past three months:

#PHLaw
#PHLaw

Health care disparities are important, but Black PIs are also interested in robotics, gene therapy, and CRISPR.

Dr. Lisa Jackson: black PIs are also interested in robotics, gene therapy, and CRISPR.

#PHLaw

The CDC recently called the HIV outbreak in Klamath County, where the virus is "still concerning." The outbreak is being investigated by health officials and local law enforcement.

#PHLaw

NSW @nswhealth: research finds higher eviction filing rates in neighborhoods with lower vaccination rates in NSW. This suggests a link between housing and health outcomes.

#PHLaw

This year's #covid has hit a record-setting high of 54 deaths per day in the US.

#PHLaw

Too much public health research is focused on changing the behavior of the powerless, rather than the powerful.
Imagine you work at a nonprofit harm reduction organization.

The Commonwealth of Massachusetts has allocated a $5 million grant to your (Boston-based) organization to provide the community with one of the following:

- 5 groups will discuss different harm reduction tools:
  - Syringe Exchange
  - Naloxone Distribution
  - Fentanyl Testing Strips
  - Post-Use Monitoring Facility
  - Supervised Consumption Site

You will have 20 minutes to construct a business plan for using funds from the grant.

As you construct your plan, consider the following:

- How will you reach your target population?
- How will you allocate your initial funding (and over what time period)?
- How will you make the program sustainable beyond initial funding?
- What personnel are needed?
- What space/facilities are needed?
- Where will your business be located?
- What other community entities will you partner with?