

Compassionate Approaches in the Criminal Legal System

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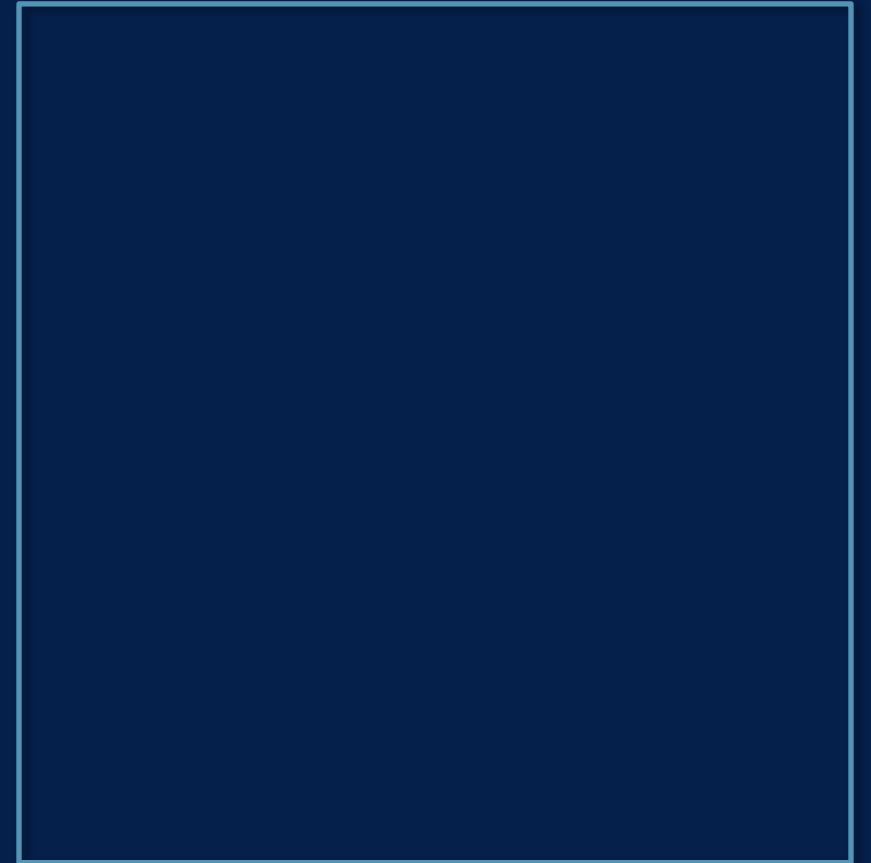
Disclosure Information (Required)

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Regina LaBelle, JD

☀ No disclosures



Disclosure Information (Required)

- ☀ Presenter 1: Regina LaBelle, JD

- ☀ Presenter 1 No disclosures

- ☀ Presenter 2: Full Name and Credentials

- ☀ Presenter 2 Commercial Interests: Name of Company, What was received, For What Role – Put “No Disclosures” if they do not have any

- ☀ Presenter 3: Full Name and Credentials

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- ☀ Presenter 4: Full Name and Credentials

- ☀ Presenter 4 Commercial Interests: Name of Company, What was received, For What Role – Put “No Disclosures” if they do not have any

Learning Objectives

- ☀ Provide an overview of the policy and legal landscape of addiction treatment in the criminal legal system. Identify recent enforcement actions and litigation that have resulted in increased availability of evidence based treatment in the criminal legal system. Define opportunities for further reform and partnerships between public health and the criminal legal system.

Addiction & Public Policy Initiative

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The Addiction and Public Policy Initiative
O'Neill Institute for National and Global Health Law
at Georgetown University Law Center

Advancing a public health approach to substance use disorders through legal and policy strategies that promote evidence based treatment and support recovery.



Targeted Response for Highest Risk Groups: Justice-Involved Population

- Corrections and courts traditionally involved in the response to addiction
- Separate system from health care and treatment
- Offer key intervention point for people with SUD
- People involved in these systems are at a significantly higher risk of overdose and death

Addressing Social Determinants of Addiction ⁷

Building Recovery Capital

Stable Housing

Employment supports

Educational and vocational opportunities

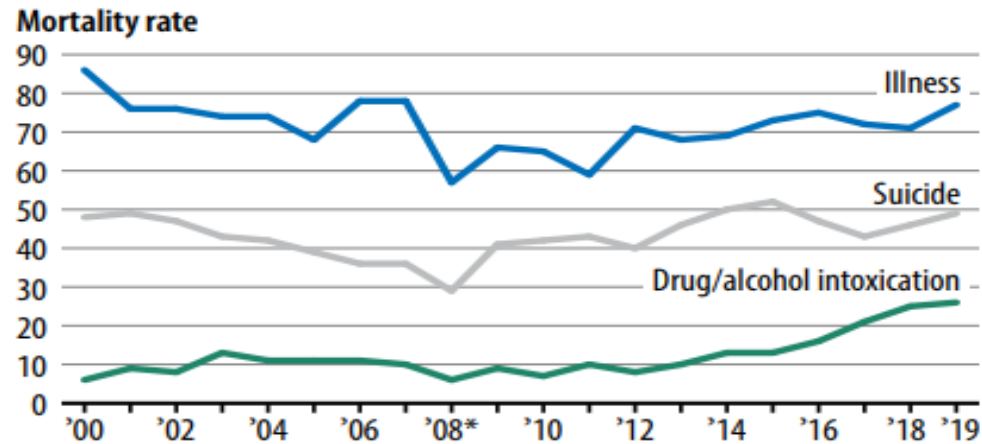
Family supports

Soft skills

Community and purpose

Deaths in US Jails

FIGURE 2
Mortality rate per 100,000 local jail inmates, by cause of death, 2000–2019



Note: Data may have been revised from previously published statistics. Mortality rates are per 100,000 inmates held in the custody of local jails. Mortality rates for 2001–2019 are based on the annual number of deaths and the average daily population (ADP). In 2000, the ADP was estimated by taking the average of January 1 and December 31 inmate population counts. See *Methodology*. See table 3 for rates.

*In 2008, a high number of illness cases were missing cause of death information and were classified as missing.

Source: Bureau of Justice Statistics, *Mortality in Correctional Institutions, 2000–2019*.

☀️ The rate of intoxication deaths more than quadrupled, from 6 per 100,000 in 2000 to 26 per 100,000 in 2019.

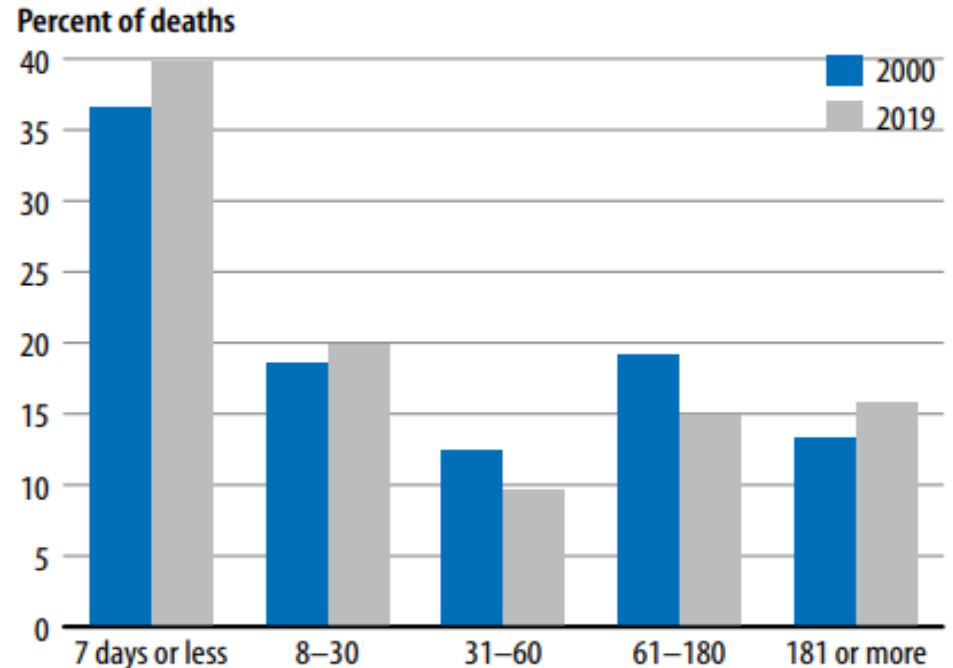
☀️ Suicide was the leading single cause of death in local jails in 2019 (355 deaths or 30% of all deaths).

Human Cost of Jail as a Response to

- Almost 40% of people who died in local jails in 2019 had been held for 1 week or less. (*Bureau of Justice Statistics, Mortality in Correctional Institutions*)
- Incarcerated persons are 10-40 times more likely to die of an opioid involved overdose within a few weeks after release.

Summary

FIGURE 4
Percent of deaths of local jail inmates, by time served before death, 2000 and 2019



Note: Data may have been revised from previously published statistics. Percentages are based on nonmissing data. See table 6 for percentages.
Source: Bureau of Justice Statistics, *Mortality in Correctional Institutions*, 2000 and 2019.

Financial Cost: “Dying Inside”

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- ☀ Civil litigation cases involving deaths in custody represented over \$292 million awarded from 2015-2020
- ☀ Suicide was the leading cause of death, accounting for the claims in 35% of the cases reviewed.
- ☀ Drug-related deaths (including overdoses & withdrawal) accounted for 19% of the lawsuits filed.
- ☀ Almost a quarter of in-custody deaths (23%) occurred within the first 24 hours after arrest

Key Elements of a New Approach

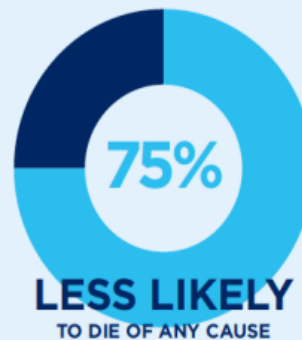
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- ☀️ Access to Evidence-Based Treatment in correctional settings, hospitals, treatment and sober living
- ☀️ Diversion/Deflection from criminal-legal system
- ☀️ Peer support and SDOH

“I didn’t believe in it. But we were convinced to try it. In the first three months we saw a reduction in diversion and recidivism. And it was saving lives. It’s a no-brainer.”

SHERIFF CRAIG APPLE
ALBANY COUNTY, NEW YORK

UPON RELEASE FROM INCARCERATION, PEOPLE WHO RECEIVED MEDICATIONS FOR OPIOID USE DISORDER WHILE INCARCERATED



SOURCE: Shabbar I. Ranapurwala et al., Opioid Overdose Mortality Among Former North Carolina Inmates.

SOURCE: Nickolas Zaller, Initiation of Buprenorphine During Incarceration and Retention in Treatment Upon Release; Verner S. Westerberg, et al., Community-Based Methadone Maintenance in a Large Detention Center is Associated with Decreases in Inmate Recidivism.


The Americans with Disabilities Act as a Vehicle for Reform

ADA Guidance on Opioid Use Disorder¹³ from U.S. Department of Justice

The Americans with Disabilities Act and the Opioid Crisis: Combating Discrimination Against People in Treatment or Recovery

The opioid crisis poses an extraordinary challenge to communities throughout our country. The Department of Justice (the Department) has responded with a comprehensive approach prioritizing prevention, enforcement, and treatment. This includes enforcing the Americans with Disabilities Act (ADA), which prohibits discrimination against people in recovery from opioid use disorder (OUD) who are not engaging in illegal drug use, including those who are taking legally-prescribed medication to treat their OUD. This guidance document provides information about how the ADA can protect individuals with OUD from discrimination—an important part of combating the opioid epidemic across American communities. While this document focuses on individuals with OUD, the legal principles discussed also apply to individuals with other types of substance use disorders.

Litigation and Enforcement Actions¹⁴

 New York Times

Methadone Helped Her Quit Heroin. Now She's Suing U.S. Prisons to Allow the Treatment.

Now She's Suing U.S. Prisons to Allow the Treatment. a staff lawyer at the American Civil Liberties Union of Massachusetts, which is ... is that the standard of care to treat opioid use disorder is medication-assisted
Mar 15, 2019



IN A NATIONWIDE FIRST, COURT ORDERS JAIL TO PROVIDE TREATMENT FOR OPIOID USE DISORDER TO ALL INDIVIDUALS IN CLASS-ACTION SUIT

NYCLU
ACLU of New York

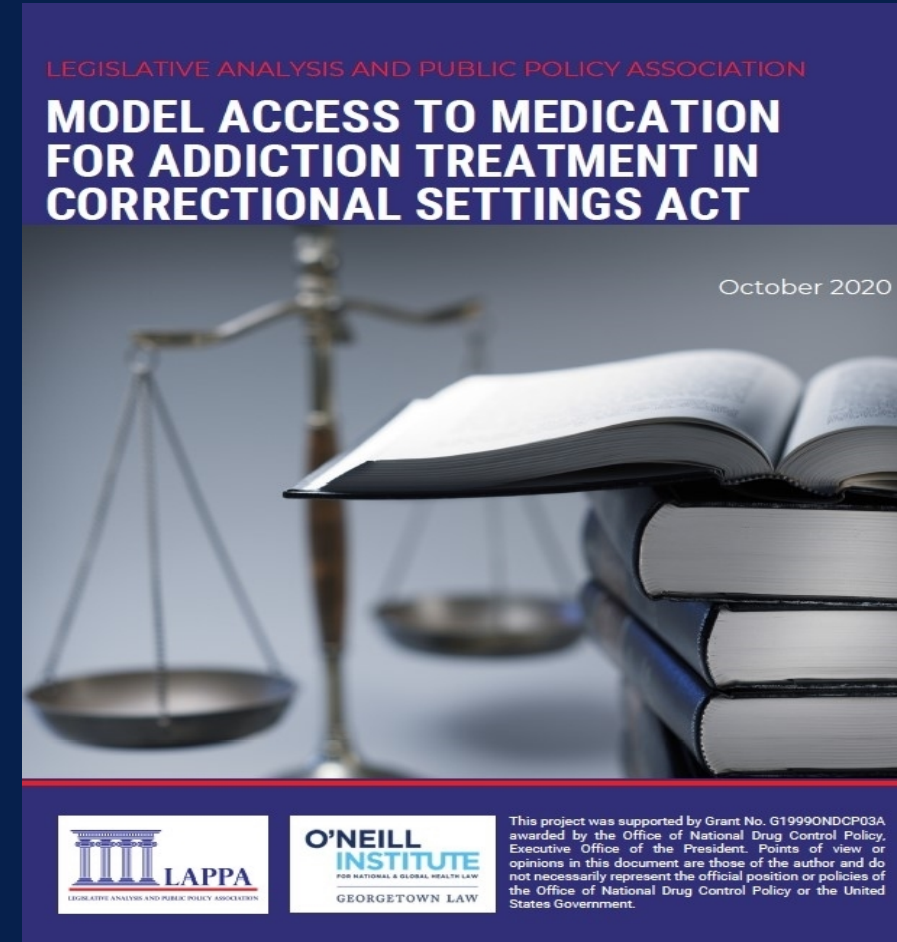
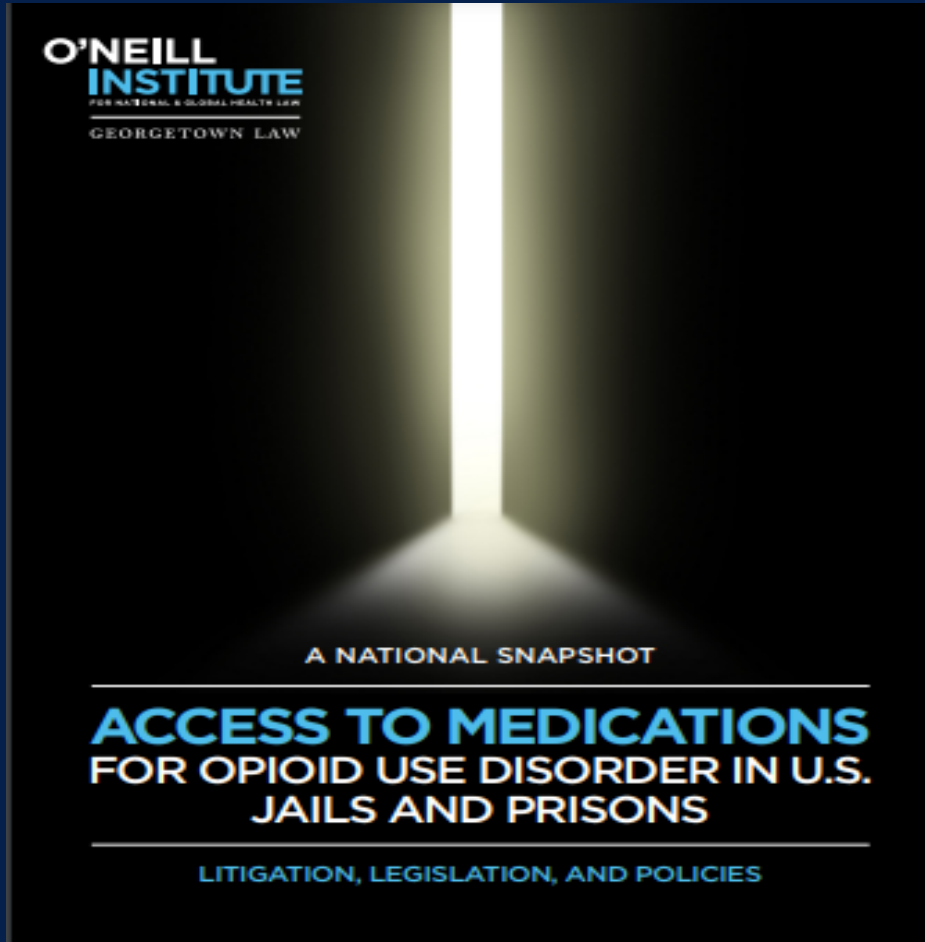
FOR IMMEDIATE RELEASE

Monday, February 7, 2022

Justice Department Finds that Pennsylvania Courts Discriminated Against People with Opioid Use Disorder

Justice Department Finds that Indiana State Nursing Board Discriminates Against People with Opioid Use Disorder





Some of the State and National Policy¹⁶ Reforms

under Discussion/Development

- Maximizing Medicaid – 1115 waiver addressing “inmate exclusion”
- Diversion/Community Care
- Methadone/MOUD reform
- State legislation/EOs requiring MOUD in correctional and other settings
- Parity implementation

Contact

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References

1. Bureau of Justice Statistics, Mortality in Correctional Institutions, 2000–2019.
2. Shabbar I. Ranapurwala et al. “Opioid Overdose Mortality Among Former North Carolina Inmates: 2000–2015”, *American Journal of Public Health* 108, no. 9 (September 1, 2018): pp. 1207-1213.
3. Taleed El-Sabawi, Shelly Weizman, Somer Brown, and Regina LaBelle, *How People Die Inside: A qualitative analysis of fact patterns in civil litigation involving deaths that occur in jail custody* (forthcoming 2023).
4. Zaller, N., McKenzie, M., Friedmann, P. D., Green, T. C., McGowan, S., & Rich, J. D. (2013). Initiation of buprenorphine during incarceration and retention in treatment upon release. *Journal of substance abuse treatment*, 45(2), 222–226.
<https://doi.org/10.1016/j.jsat.2013.02.005>
5. Shelly Weizman, Joanna Perez, Isaac Manoff, Melissa Baney, and Taleed El-Sabawi. *National Snapshot: Access To Medications For Opioid Use Disorder In U.S. Jails And Prisons*. O’Neill Institute for National and Global Health Law at Georgetown Law Center (July 2021).