

# 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 (PTAC) Collaborative



# The Opioid Epidemic

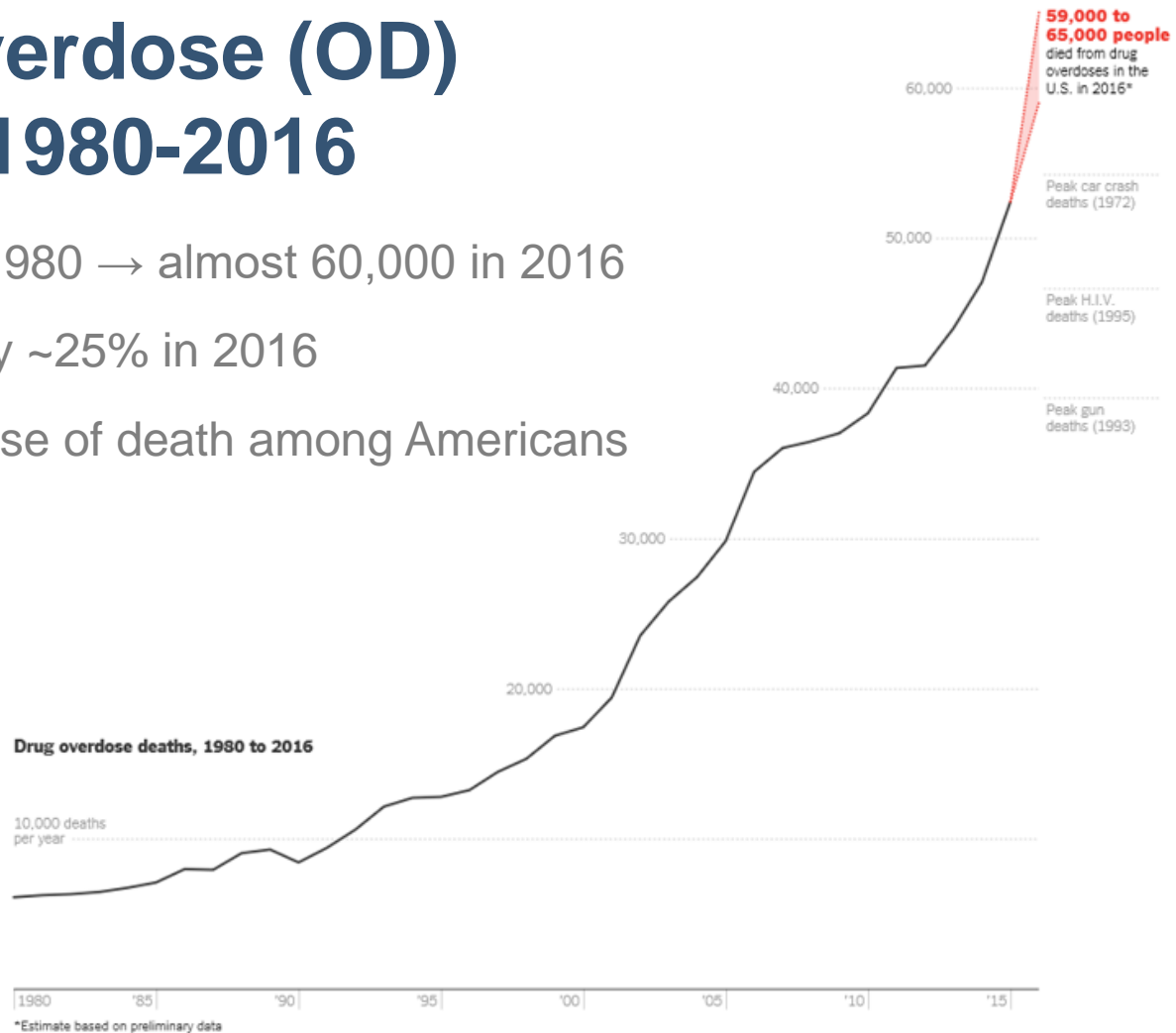


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# Drug Overdose (OD) Deaths 1980-2016

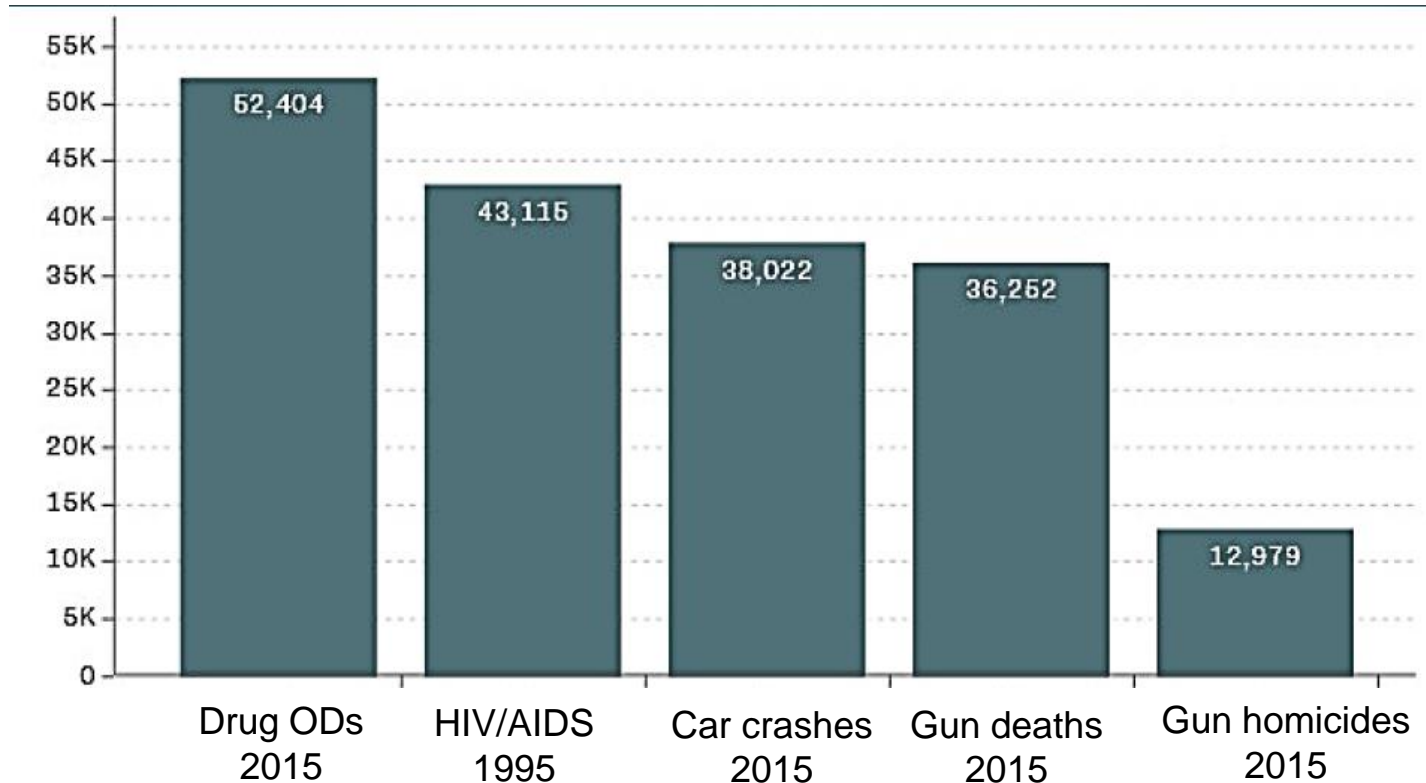
- <10,000 in 1980 → almost 60,000 in 2016
- Increased by ~25% in 2016
- Leading cause of death among Americans under 50



Source: Katz, 2017



# Drug Deaths Surpassed Gun and HIV/AIDS Deaths in 2015



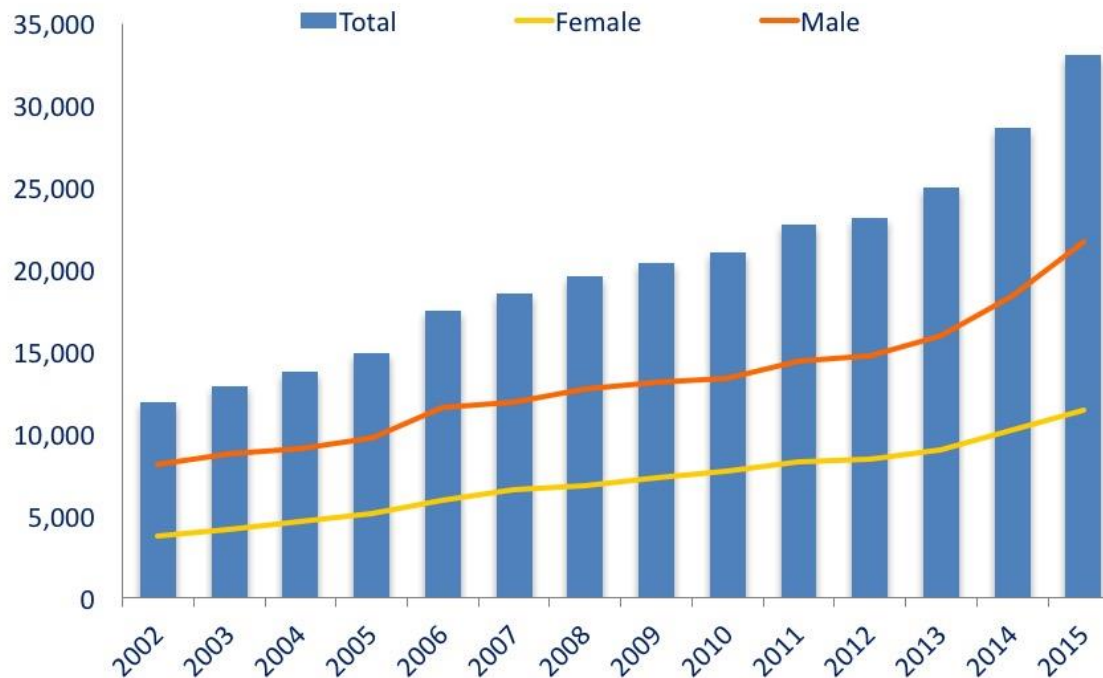
Source: Reichart 2017 (2015 CDC data)



# Opioid Deaths Continue Dramatic Rise



## National Overdose Deaths Number of Deaths from Opioid Drugs



Source: National Center for Health Statistics, CDC Wonder

Source: NIDA, 2017

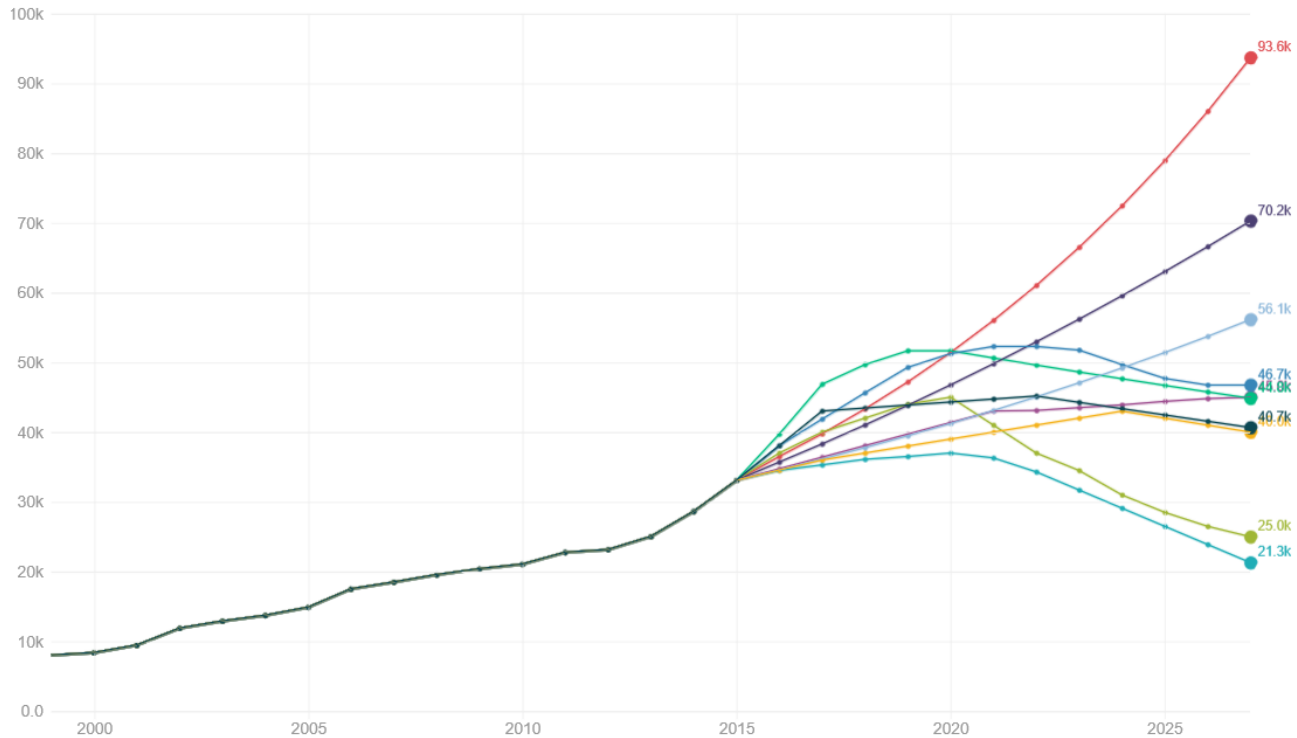


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# Opioid Deaths Could Top 650K Over Next Decade

Opioid overdose deaths: 10 projected scenarios.



Source: Blau, 2017



# Pre-Arrest Diversion: A Public Health Solution for Improved Public Safety



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# Variety of Terms for Pre-Arrest Diversion

- Deflection
- No arrest
- Pre-arrest
- Pre-charge
- Pre-booking
- Police diversion
- Police assisted diversion
- Law enforcement encounter
- Law enforcement assisted diversion



# 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”



# 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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# Emerging Issues and Example Policy Responses

- 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



# 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 *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

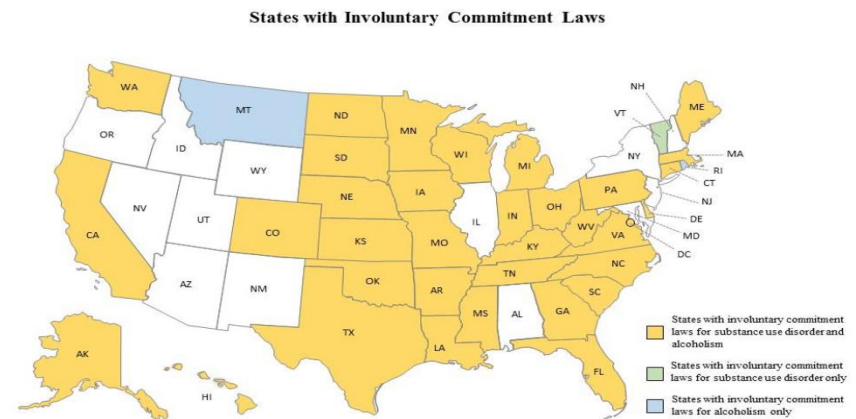
**Issue:** Individuals discharged from the ER following an opioid OD reversal without connection to further medical care or substance use treatment. *Following a period of abstinence during an ER stay, individuals are highly susceptible to subsequent/repeat OD.*

- 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*



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NAMSDL, 2016



# PTAC

POLICE, TREATMENT AND COMMUNITY



# COLLABORATIVE



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# About the PTAC Collaborative

- Founded as the result of the March 2017 Inaugural Summit held at International Association of Chiefs of Police (IACP)
- Summit organizers: AdCare Criminal Justice Services, C4 Recovery Solutions, Center for Health and Justice at TASC, Civil Citation Network, George Mason University, International Association of Chiefs of Police, and Western Carolina University
- Named for the collaborative relationship between police, treatment, and community necessary to make police diversion possible



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# PTAC Collaborative

## Mission, Purpose, and Cornerstone

- **Mission** – To strategically widen community behavioral health and social service options available through law enforcement diversion
- **Purpose** – To provide national vision, leadership, voice, and action to reframe the relationship between law enforcement, treatment, and community
- **Cornerstone** – PTAC is agnostic as to the model/brand of pre-arrest diversion; which approach solves the problem, fits the local situation, and can be addressed through the behavioral health capacity?





# Questions & Thank You

*Please contact for further information:*

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