

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

**Jac Charlier**

National Director for Justice Initiatives

[jcharlier@tasc.org](mailto:jcharlier@tasc.org) | 312-573-8302

v. 12.22.17



CENTER FOR  
HEALTH & JUSTICE  
AT TASC

@TASC\_CHJ

# 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

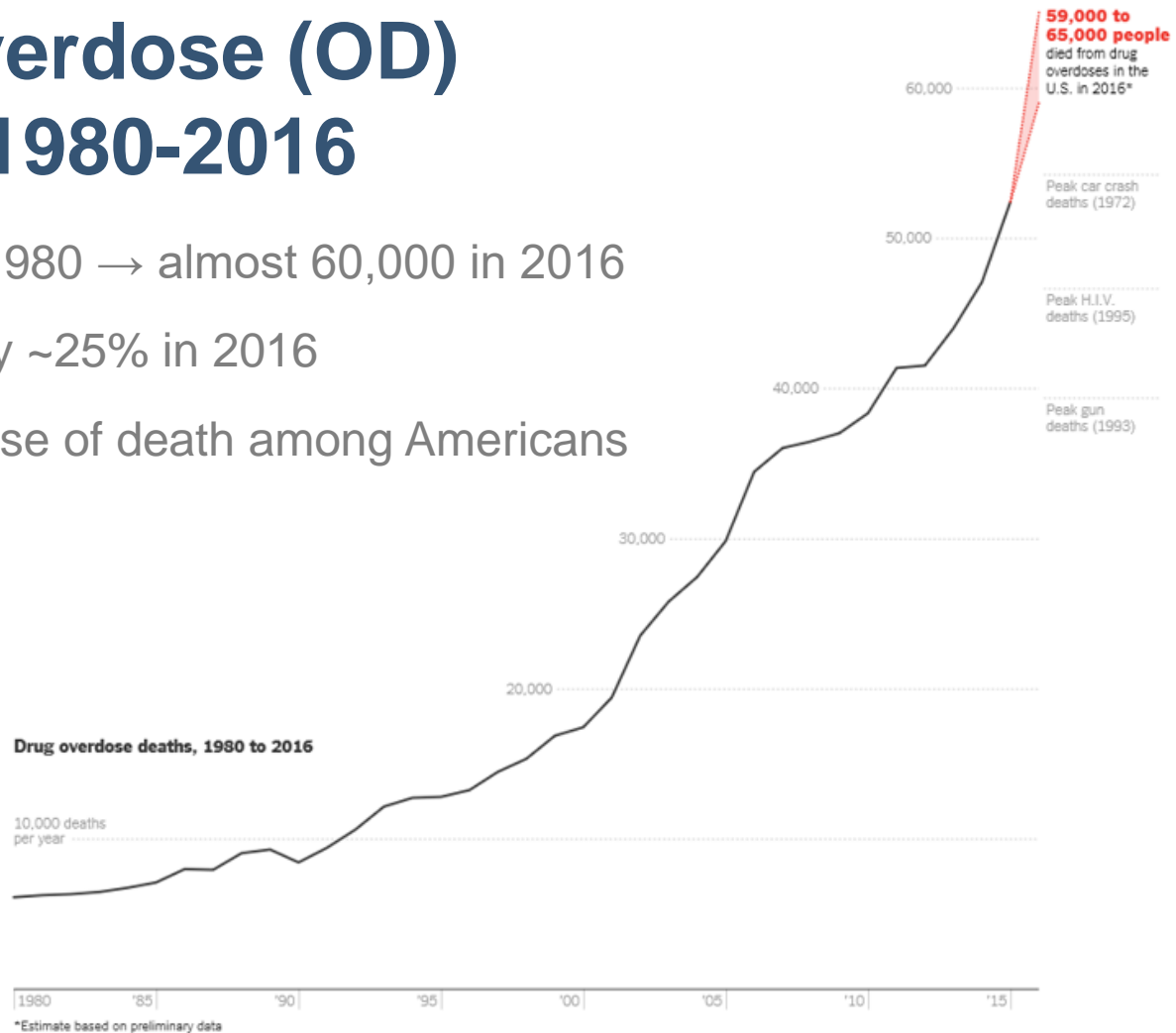


CENTER FOR  
HEALTH & JUSTICE  
AT TASC

 [@TASC\\_CHJ](https://twitter.com/TASC_CHJ)

# Drug Overdose (OD) Deaths 1980-2016

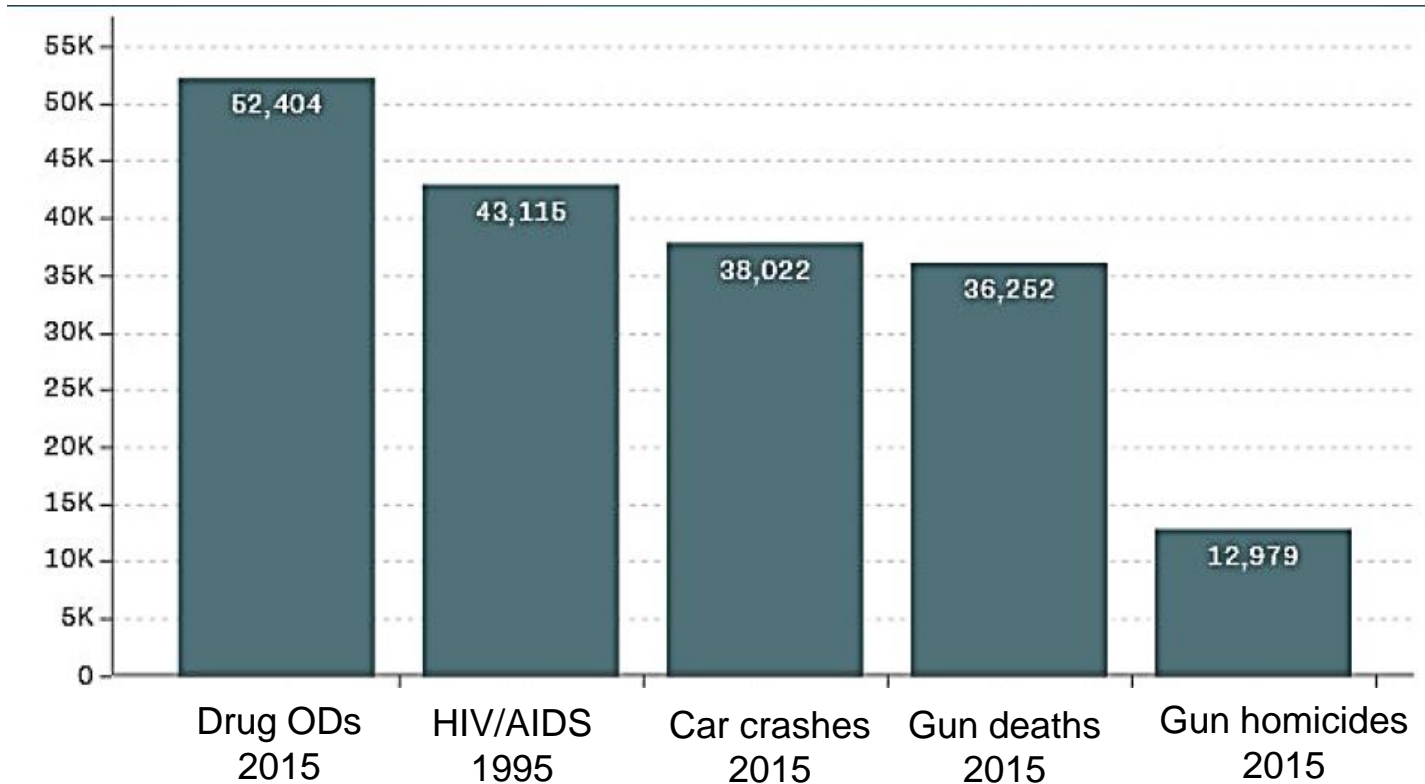
- <10,000 in 1980 → almost 60,000 in 2016
- Increased by ~25% in 2016
- Leading cause of death among Americans under 50



Source: Katz, 2017



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



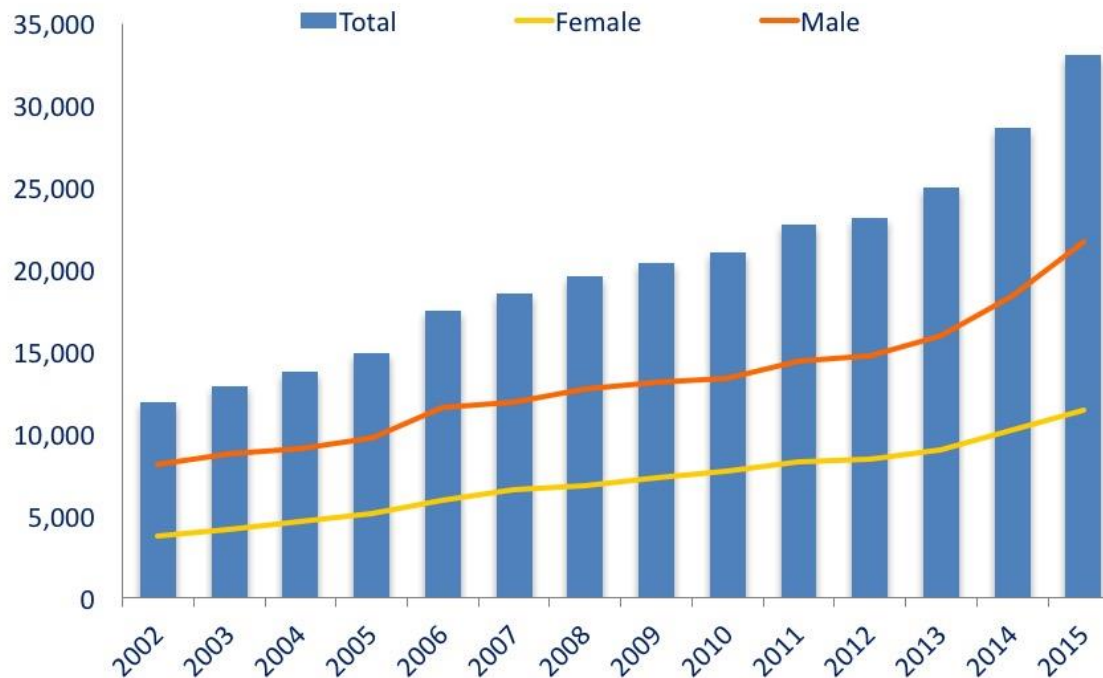
Source: Reichart 2017 (2015 CDC data)



# 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

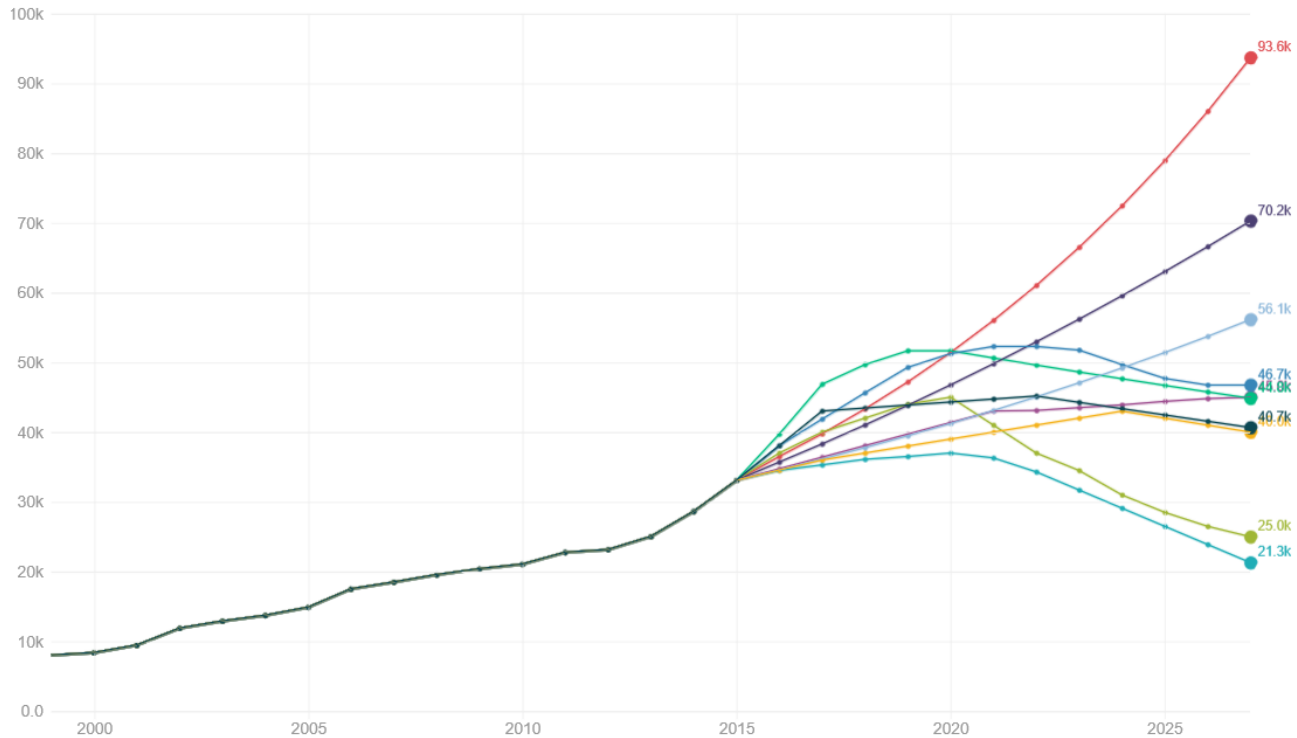


CENTER FOR  
HEALTH & JUSTICE  
AT TASC

@TASC\_CHJ

# 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



CENTER FOR  
HEALTH & JUSTICE  
AT TASC

 [@TASC\\_CHJ](https://twitter.com/TASC_CHJ)



# 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”
- 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



CENTER FOR  
HEALTH & JUSTICE  
AT TASC

 [@TASC\\_CHJ](https://twitter.com/TASC_CHJ)

# 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
  - 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 *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

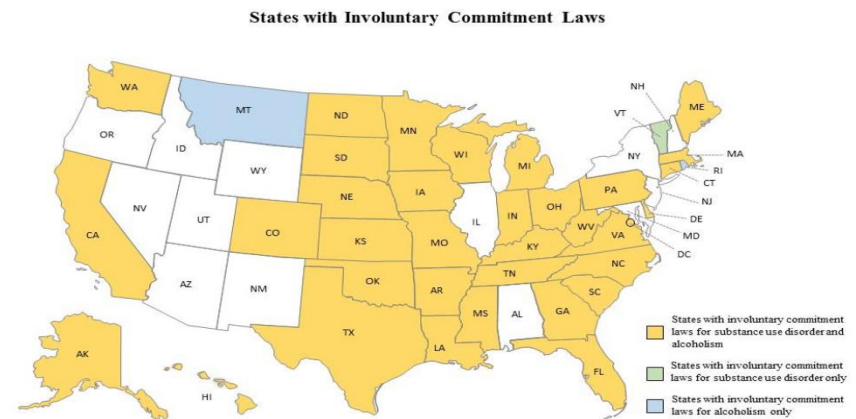
**Issue:** Individuals discharged from the ER following an opioid OD reversal without connection to further medical care or substance use treatment. *Following a period of abstinence during an ER stay, individuals are highly susceptible to subsequent/repeat OD.*

- 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*



© 2016 The National Alliance for Model State Drug Laws (NAMSDL). Headquarters Office: 100% E. Main Street, Suite C, Manchester, Iowa 52057.

NAMSDL, 2016



# PTAC

POLICE, TREATMENT AND COMMUNITY



# COLLABORATIVE



CENTER FOR  
HEALTH & JUSTICE  
AT TASC

 @TASC\_CHJ

# About the PTAC Collaborative

- Founded as the result of the March 2017 Inaugural Summit held at International Association of Chiefs of Police (IACP)
- PTAC Inaugural 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



CENTER FOR  
HEALTH & JUSTICE  
AT TASC

 @TASC\_CHJ

# 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 open as to which model/brand of pre-arrest diversion is appropriate for a jurisdiction; each community must determine which approach solves its problem, fits the local situation, and can be addressed through current behavioral health capacity



CENTER FOR  
HEALTH & JUSTICE  
AT TASC

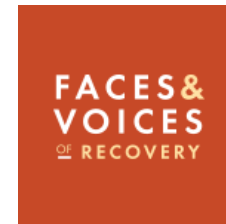
 @TASC\_CHJ



# PTAC Collaborative Founding Partners



C4 RECOVERY FOUNDATION  
IMPROVING TREATMENT ACCESS, QUALITY, & INTEGRITY



@TASC\_CHJ

# Questions & Thank You

*Please contact for further information:*

## **Jac Charlier**

National Director for Justice Initiatives  
Center for Health and Justice at TASC  
jcharlier@tasc.org | 312-573-8302  
www.centerforhealthandjustice.org

*\* CHJ wishes to acknowledge Amber Widgery, policy specialist at the National Conference of State Legislatures (NCSL), for contributions made to this presentation, including content used with permission from their “Pretrial Release: State Law and Legislation” presentation.*



CENTER FOR  
HEALTH & JUSTICE  
AT TASC

 @TASC\_CHJ

# References

- Blau, M. (27 June 2017). STAT forecast: Opioids could kill nearly 500,000 Americans in the next decade. STAT, <https://www.statnews.com/2017/06/27/opioid-deaths-forecast/>.
- Katz, J. (5 June 2017). Drug deaths in America are rising faster than ever. New York Times, [https://www.nytimes.com/interactive/2017/06/05/upshot/opioid-epidemic-drug-overdose-deaths-are-rising-faster-than-ever.html?\\_r=0](https://www.nytimes.com/interactive/2017/06/05/upshot/opioid-epidemic-drug-overdose-deaths-are-rising-faster-than-ever.html?_r=0).
- National Alliance for Model State Drug Laws [NAMSDL]. (2016). Involuntary commitment for individuals with a substance use disorder or alcoholism, <http://www.namsdl.org/IssuesandEvents/NEW%20Involuntary%20Commitment%20for%20Individuals%20with%20a%20Substance%20Use%20Disorder%20or%20Alcoholism%20August%202016%2009092016.pdf>.
- National Institute on Drug Abuse [NIDA]. (2017). Overdose death rates, <https://www.drugabuse.gov/related-topics/trends-statistics/overdose-death-rates>.
- Reichert, J. (2017). Police-Led Referrals to Substance Use Disorder Treatment [presentation]. Center for Justice Research and Evaluation, Illinois Criminal Justice Information Authority.

