



Americans With Disabilities Act and Substance Use Disorder

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overdoseleadershipsummit.org

Presented by



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The Addiction & Public Policy Initiative

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





A New Approach: National Trends and Strategies

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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

- Stable Housing
- Employment supports
- Educational and vocational opportunities
- Family supports
- Soft skills
- Community and purpose

Human Cost of Jail as a Response to SUD

- Deaths in local jails due to drug or alcohol intoxication more than quadrupled between 2000 and 2018.
- Almost 40% of people who died in local jails in 2019 had been held for 1 week or less.
- Incarcerated persons are 10-40 times more likely to die of an opioid involved overdose within a few weeks after release.
- Significant collateral consequences of incarceration or justice system involvement

Human Cost of Jail as a Response to SUD

Victoria Herr



Lebanon County pays nearly \$5M over heroin withdrawal death in jail

Bernard Victorianne



San Diego County settles jail death case for \$2.3M

Daniel Sisson



\$3M Ruling Upheld In Jail Death Case

Financial Cost

“Dying Inside” Series

- 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

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 2022).

Key Elements of a New Approach

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

“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.



**OVERDOSE
PREVENTION
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The Americans with Disabilities Act as a Vehicle for Reform

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New ADA Guidance on Opioid Use Disorder 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 Enforcement Action

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



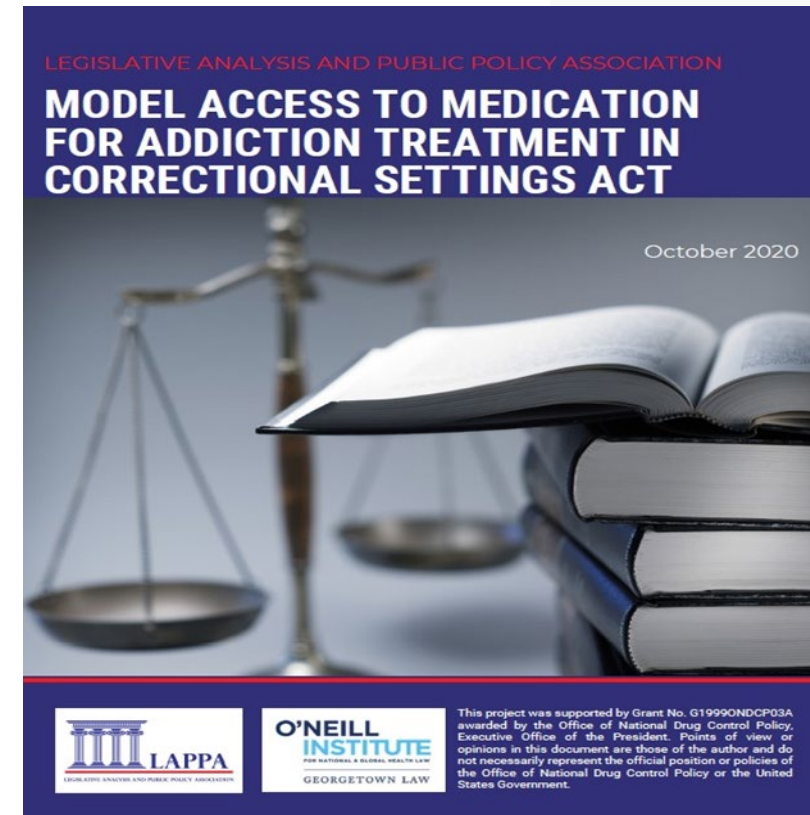
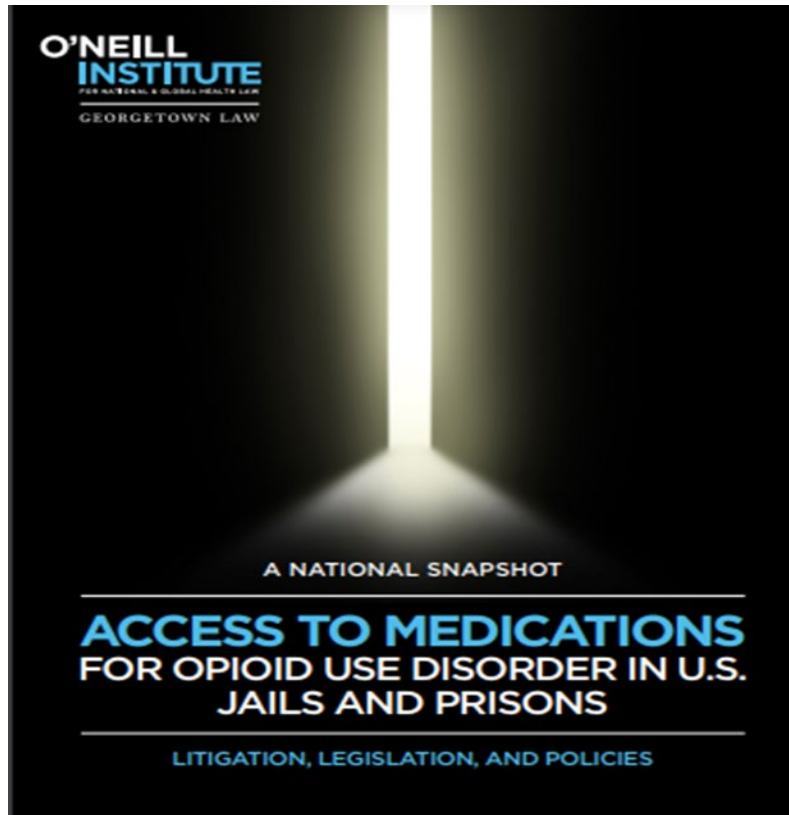
NYCLU
ACLU of New York

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



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

Legislation, Leadership, Funding



Legislation, Leadership, Funding



Governor Chris Sununu, RFW Press Conference

Expanding Implementation and Re-Examining the Scope of the ADA

- Using the ADA to advance access to evidence-based treatment in a range of settings
- Examining statewide policies and regulatory frameworks through lens of ADA
- Establish a commission to examine the ADA in light of the evolving science of addiction

Some of the State and National Policy Reforms under Discussion/Development

- Maximizing Medicaid – addressing “inmate exclusion” and reimbursing recovery supports
- Methadone reforms
- State legislation/EOs requiring MOUD in correctional and other settings
- Parity implementation
- SABG 10% set-aside
- Ban the Box and Second Chance Legislation

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