



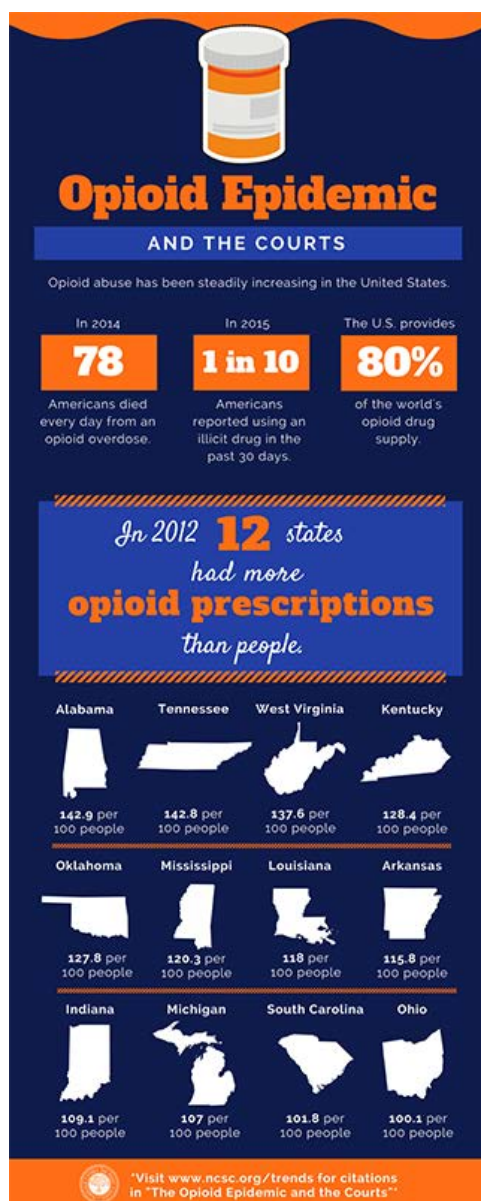
# Opioid Epidemic and the Courts

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*Opioid abuse has been steadily increasing in the United States. State courts must partner with other organizations to confront this epidemic.*



The misuse of opioids such as heroin, morphine, and other prescription pain medicines is a serious national problem. In 2015 one in ten Americans reported using an illicit drug in the past 30 days.<sup>[1]</sup> Marijuana use and the misuse of prescription pain relievers account for the majority of illicit drug use. Of the 21.5 million Americans 12 or older who had a substance-use disorder in 2014, 1.9 million had a substance-use disorder involving prescription pain relievers, and 586,000 had a substance-use disorder involving heroin.<sup>[2]</sup>

Widespread use of opioids has had a devastating impact on many communities. In 2014, more people died from drug overdoses than in any year on record, with 78 Americans dying every day from an opioid overdose. Drug overdose now surpasses motor-vehicle crashes as the leading cause of injury death in the United States. Most opioid-related overdoses involve prescription painkillers, but a growing number are the result of a powerful combination of heroin and fentanyl, a synthetic opioid often packaged and sold as heroin. Some of the largest concentrations of overdose deaths were in Appalachia and the Southwest, according to county-level estimates by the Centers for Disease Control and Prevention.<sup>[3]</sup>

One contributing factor behind the opioid epidemic is the increase in the use of prescription painkillers nationally.

From 1991 to 2011, the number of opioid prescriptions dispensed by U.S. pharmacies tripled from 76 million to 219 million.<sup>[4]</sup> This increase in the use of opioids is unique to America. The United States represents less than 5 percent of the world's population but consumes roughly 80 percent of the world's supply of opioid drugs.<sup>[5]</sup> There is also wide variation from one state to another in opioid-prescribing rates. In 2012 twelve states had more opioid prescriptions than people: Alabama (142.9 per 100 people), Tennessee (142.8), West Virginia (137.6), Kentucky (128.4), Oklahoma (127.8), Mississippi (120.3), Louisiana (118), Arkansas (115.8), Indiana (109.1), Michigan (107), South Carolina (101.8), and Ohio (100.1).<sup>[6]</sup>

The impact of the opioid epidemic touches every aspect of our public safety and judicial system. Drug-related arrests involving opioids are skyrocketing. In many communities, court dockets and probation caseloads are filled with individuals with opioid-use disorders. Access to treatment, particularly medication-assisted treatment combined with cognitive behavioral interventions, is limited—particularly in rural communities. This epidemic also comes at a price. In 2015 the Ohio Department of Mental Health and Addiction Services began providing substance-abuse treatment in Ohio's prisons, spending an estimated \$30 million per year on drug treatment in prisons, \$4 million on housing for individuals in recovery, and \$1 million over two years for naloxone to reverse drug overdoses. The Ohio State Highway Patrol spent over \$2 million to expand and improve their crime lab to keep up with substance testing.

In addition to the impact of opioid abuse on the criminal courts, the nation's family courts and child welfare system are being deeply impacted. A recent report by the Administration for Children and Families shows that after years of decline, the number of children in foster care is rising. Nearly three-quarters of all states reported an increase in the number of children entering foster care from 2014 to 2015. The largest increases occurred in Florida, Indiana, Georgia, Arizona, and Minnesota. From 2012 to 2016, the percentage of removals nationally due to parental substance abuse increased 13 percent to 32.2 percent.

The judiciary can play a critical role in addressing the opioid epidemic. In August 2016, representatives from the Kentucky, Illinois, Indiana, Michigan, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia courts convened for the first-ever Regional Judicial Opioid (RJOI) Summit. The judicial summit brought together multidisciplinary delegates from each state to develop a regional action plan and consider regional strategies to combat the opioid epidemic. RJOI member states continue to work both within their home states and regionally to share promising practices, as well as to implement the objectives of the regional action plan. Courts are encouraged to work with partners in similar ways to:

- Invest in local, state, and regional multidisciplinary, system-level strategic planning to identify policies or practice changes that can improve treatment engagement and reduce the risk of overdose death. Judges are particularly effective at using their convening power to bring together a variety of agencies and community stakeholders. The sequential intercept model is an effective approach to identifying gaps and opportunities

for diverting criminal-justice-involved people to treatment. Communities are encouraged to not focus singularly on heroin use but to focus on substance-use disorders in general. A recent CDC study found that nearly all people who used heroin also used at least one other drug; most used at least three other drugs.<sup>[1]</sup>

- > Implement law-enforcement diversion programs, prosecutor diversion programs, or both to deflect or divert individuals with substance-use disorders from the criminal justice system into treatment at the earliest possible point.
- > Expand court diversion and sentencing options that provide substance-abuse treatment as an alternative to incarceration. Problem-solving courts, such as adult drug courts or veterans treatment courts, are the most notable examples of effective approaches.
- > Incorporate strategic screening questions designed to identify criminal-justice-involved individuals at high-risk for overdose death into all criminal-justice-agency intake forms. Specifically, research suggests that individuals with a history of non-fatal overdoses, individuals with a history of opioids in combination with benzodiazepines like Xanax (alprazolam) and Soma (Carisoprodol), and individuals with an opioid-use disorder recently released from a confined environment (e.g., residential treatment or incarceration) are at particular risk for overdose death. This population should be prioritized for treatment and overdose-prevention services, such as naloxone access.

On January 24, 2017, the Bureau of Justice Assistance released funding for a “Comprehensive Opioid Abuse Program.” Through this solicitation, courts and their partners may implement overdose outreach projects, technology-assisted treatment programs, and diversion and alternatives to incarceration. The grants are due April 25, 2017. A copy of the solicitation can be found [here](#).

The National Center for State Courts is cosponsoring an upcoming meeting to be held on February 28, 2017, *Promoting a Comprehensive Response to the Opioid Epidemic: Funding, Effective Design and Implementation, Research and Evaluation*, in Washington, D.C. Grant funding opportunities will be discussed at this meeting. Register [here](#).

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[1] Center for Behavioral Health Statistics and Quality, “Key Substance Use and Mental Health Indicators in the United States: Results from the 2015 National Survey on Drug Use and Health” (HHS Publication No. SMA 16-4984, NSDUH Series H-51), report prepared for the Substance Abuse and Mental Health Services Administration, Rockville, Maryland, 2016. Retrieved from <http://www.samhsa.gov/data/>.

[2] Substance Abuse and Mental Health Services Administration, Center for Behavioral Health Statistics and Quality, *Behavioral Health Trends in the United States: Results from the 2014 National Survey on Drug Use and Health* (Rockville, MD: Substance Abuse and Mental Health Services Administration, 2015).

[3] L. M. Rossen, B. Bastian, M. Warner, D. Khan, and Y. Chong, “Drug Poisoning Mortality: United States, 1999–2014,” National Center for Health Statistics, 2016.

[4] National Institute on Drug Abuse, "Prescription Opioids and Heroin," Research Report Series, Department of Health and Human Services, National Institutes of Health, Washington, D.C., 2015. Retrieved from

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[5] L. Manchikanti and A. Singh, "Therapeutic Opioids: A Ten-Year Perspective on the Complexities and Complications of Escalating Use, Abuse, and Nonmedical Use of Opioids," *Pain Physician* 11, 2nd supp. (2008): S63-S88.

[6] L. J. Paulozzi, K. A. Mack, and J. M. Hockenberry, "Vital Signs: Variation Among States in Prescribing Pain Relievers and Benzodiazepines—United States," Center for Disease Control and Prevention, Atlanta, 2014.

[7] National Survey on Drug Use and Health, 2011-2013.



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