



Emerging Opioid Court Models

Alejandra Garcia, MSW

Senior Program Manager, National Training and Technical Assistance
Center for Court Innovation

Center for Court Innovation

Our mission is to make the justice system fair, effective, and humane. We create **operating programs** to test new ideas and solve problems, perform **original research** to determine what works (and what doesn't), and provide **expert assistance** to justice reformers around the world.

Bridging the Gap

A Practitioner's Guide
to Harm Reduction in Drug Courts

by Alejandra García and Dave Lucas



Today's Agenda

The opioid and overdose crisis: the basics

Opioid use disorder and treatment courts

The Buffalo Opioid Intervention Court

The Ten Essential Elements of Opioid Courts

Beyond the OIC Model: MOUD and Harm Reduction



What are opioids?

- Class of drug primarily used to treat **pain**
- Opioids are a subset of **opiates**
- Opioids include: opiates like opium, morphine, heroin, codeine + **synthetic opiates** like fentanyl, oxycodone, Percocet, Vicodin



What are the effects of opioids on the mind and body?

- **Analgesic** (pain relief)
- Secondary effects: **euphoria, relaxation**
- Side effects:
 - **Respiratory depression**
 - **Nausea and vomiting**
 - **Constipation**



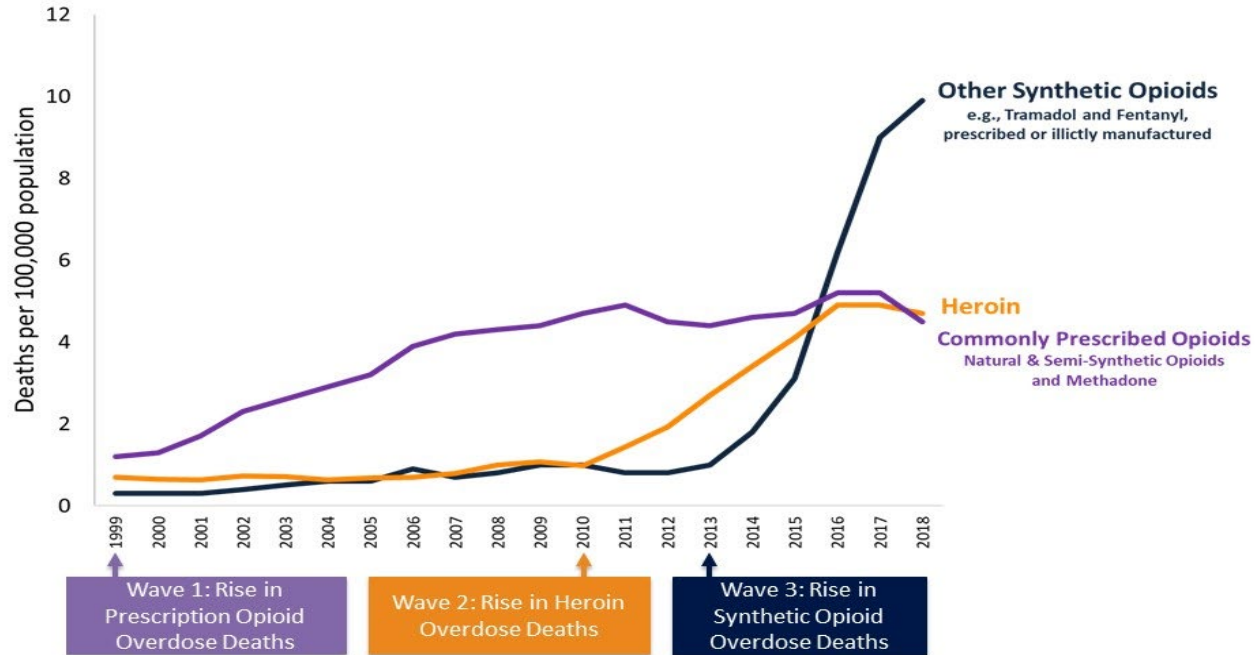
What is an opioid overdose?

- Overdose risk is a factor of the **amount** and **potency** consumed
- Opioids affect the part of the brain that regulates **breathing** , an overdose can result in the slowing or stopping of breathing (**respiratory depression**)



Source: <https://www.cdc.gov/drugoverdose/deaths/index.html>

3 Waves of the Rise in Opioid Overdose Deaths



SOURCE: National Vital Statistics System Mortality File.

SOURCE: <https://www.cdc.gov/drugoverdose/epidemic/index.html>

Social Drivers Of The Opioid Crisis

A “disease of despair”
Rise in unemployment
Housing instability
Rise in suicide rates
Covid-19 pandemic/isolation
Treatment barriers
Criminalization of people with mental health
and substance use disorders



Race and the Opioid Crisis

Between 2014-2017, overdose death rates involving opioids increased by 818%, and **was the highest for non-Hispanic Blacks** compared to all other race/ethnicities

(SAMHSA, 2019)

From 2018-2019, there was a **40% increase in opioid overdose death rate for non-Hispanic Black individuals** relative to non-Hispanic White individuals but **no change among other race/ethnicities.** (Marc

R. Larochelle, et al., 2021)



David Leggett's "Untitled" (2021), of which he says, "I wanted to create a feeling of treading water as a metaphor for recovery. The figures are resilient despite the chaos surrounding them."

Race and the Opioid Crisis

Access to life-saving addiction medications has also been **bifurcated along racial lines**. One NY study found “buprenorphine and naloxone were most accessible in residential areas with the greatest proportion of White high-income patients.”

(Hansen, 2016)

Public health implications: An **antiracist** public health approach is needed to address the crisis of opioid-related harms.

(Marc R. Larochelle, et al., 2021)



David Leggett’s “Untitled” (2021), of which he says, “I wanted to create a feeling of treading water as a metaphor for recovery. The figures are resilient despite the chaos surrounding them.”

Overdose Crisis and Criminal Justice Responses

The Good:

- Good Samaritan Laws
- Buprenorphine
decriminalization
- Court-based innovations

The Bad:

- Involuntary commitment for
SUD
- Prosecuting MOUD diversion
- Fentanyl re-scheduling

The Ugly:

- Prosecution of drug-
related deaths as
criminal killings
- Drug-induced homicide
laws exist in 25 states



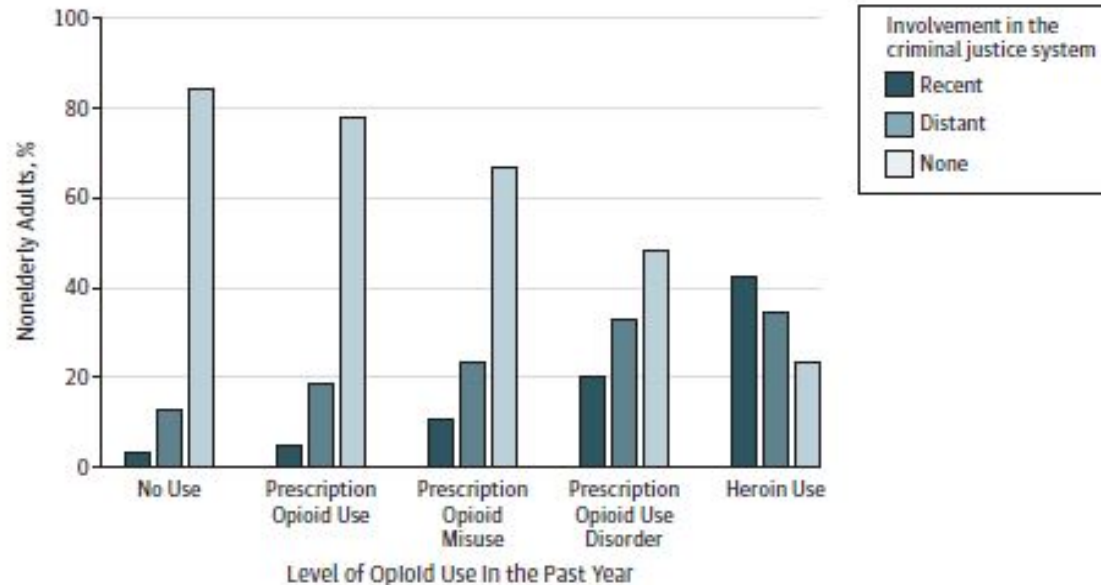
Substance Use Disorder in the Criminal Legal System

Rates of substance use disorders among justice-involved individuals are significantly higher than the general population.

- 63% of individuals who are incarcerated in local jails have reported issues with substance use, and 58% of individuals in state-run criminal justice facilities have substance use disorders (Bureau of Justice Statistics, 2017).
- 19.5% of individuals with a prescription opioid use disorder and 42.5% of those who used heroin reported contact with the criminal justice system in 2016 (Winkelman, T, 2018).

Substance Use Disorder in the Criminal Legal System

Figure. Criminal Justice Involvement by Level of Opioid Use in the United States, 2015-2016



Treatment Courts and the Opioid Crisis

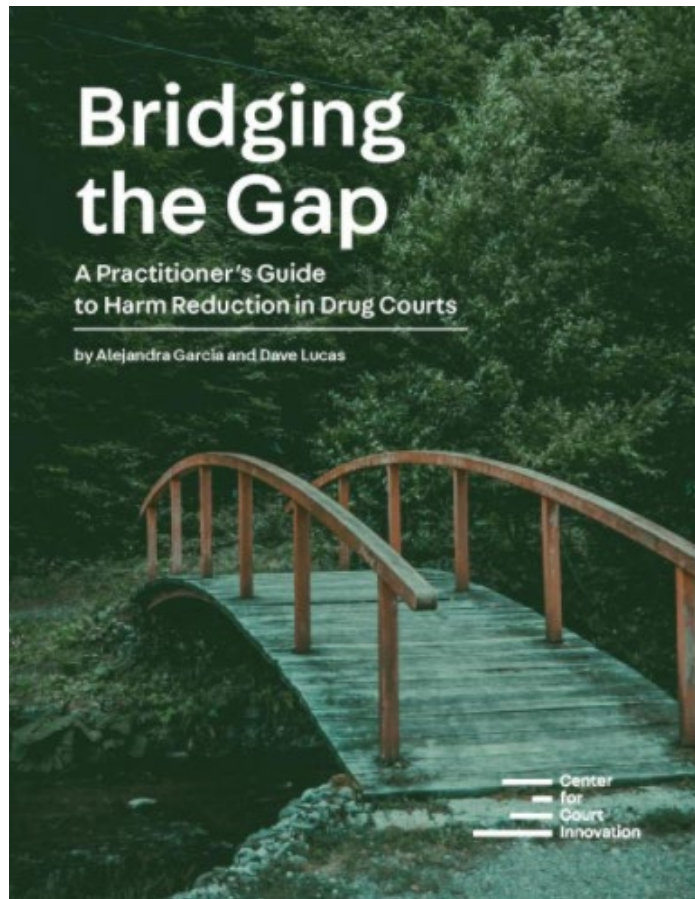
Downstream (high-risk/high-need)

Upstream (overdose prevention)

Well-positioned

Well-resourced

..BUT no guarantees



The Buffalo Opioid Intervention Court



- In 2017, the Buffalo Opioid Intervention Court was launched to support **immediate, targeted, and intensive treatment and court supervision** for individuals with an opioid use disorder.

The Buffalo Opioid Intervention Court



Rapid access to medications for opioid use disorder (MOUD)

Supporting stabilization through intensive court supervision, peer support, and drug testing

The Buffalo Opioid Intervention Court

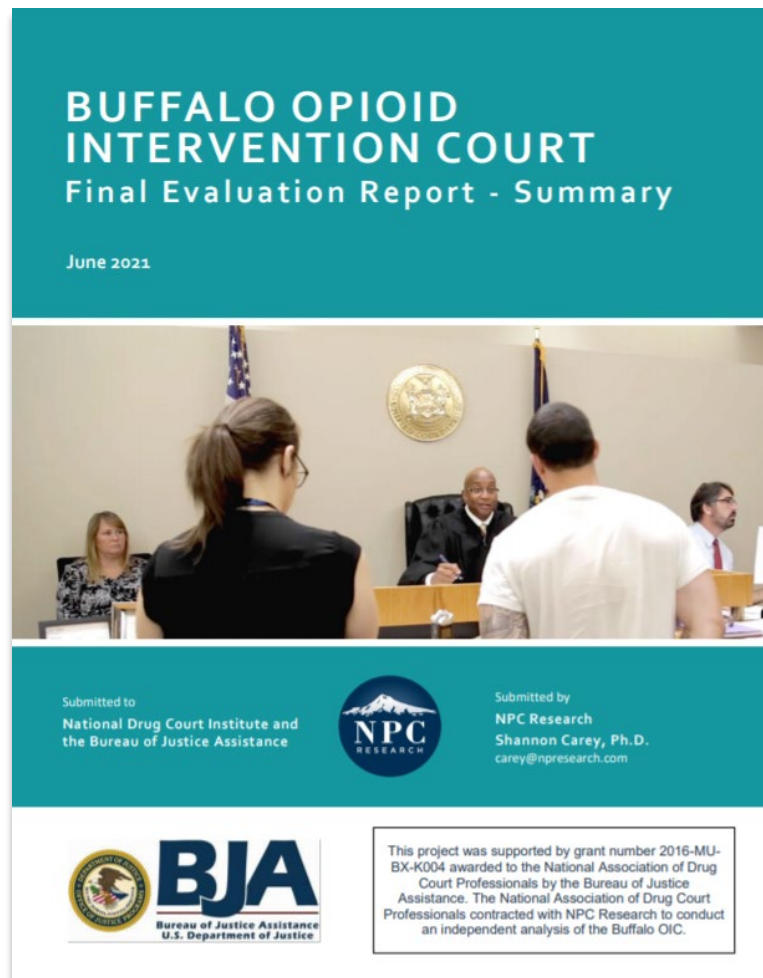


SOURCE: <https://npcresearch.com/wp-content/uploads/OIC-NY-Main-Report-June-2021-FINAL.pdf>

Buffalo OIC Outcomes

The NPC study found that compared to opioid-involved defendants who did not enter the program:

- Participants were one-third as likely to die in the six months after their jail booking and entry into OIC, and half as likely to die within one year
- Individuals who received MOUD within 14 days of their jail booking were less likely to die in the following year than those who received MOUD sometime later
- Participants had lower rates of recidivism
- For every taxpayer dollar invested in the OIC program there is a return of \$5 after just 1 year, saving over \$300,000 in costs to society per participant



National Opioid Intervention Court Guidelines

1. Broad legal eligibility

2. Immediate screen for overdose risk

3. Informed consent after consultation with defense counsel

4. Suspension of prosecution or expedited plea during treatment

5. Rapid clinical assessment and treatment engagement

The 10 Essential Elements of Opioid Intervention Courts



6. Recovery support services

7. Frequent judicial supervision and compliance monitoring

8. Intensive case management

9. Program completion and continuing care

10. Performance evaluation and program improvement

Drug Court v. Opioid Court: Key Differences

Drug Court	Opioid Court
Post-(guilty) plea	Pre-plea & voluntary; prosecution is suspended during participation
Participation may begin up to several months after arraignment (once defendant pleads guilty)	Participation begins at or immediately after arraignment
Failure to complete court can result in legal consequences	Failure to complete results in no legal consequences, just resumption of prosecution of the original charge
Participation duration typically ranges from 12-18 months	Participation duration is 90 days (or more; based on NIDA guidelines)
MOUD is not always readily accessible	Prioritize and support rapid linkage to MOUD

Opioid Court Stakeholder Group



Judge



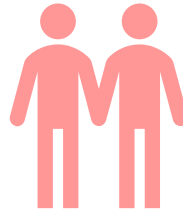
Court Coordinator



Prosecutor and Defense
Attorney



Treatment Provider(s)

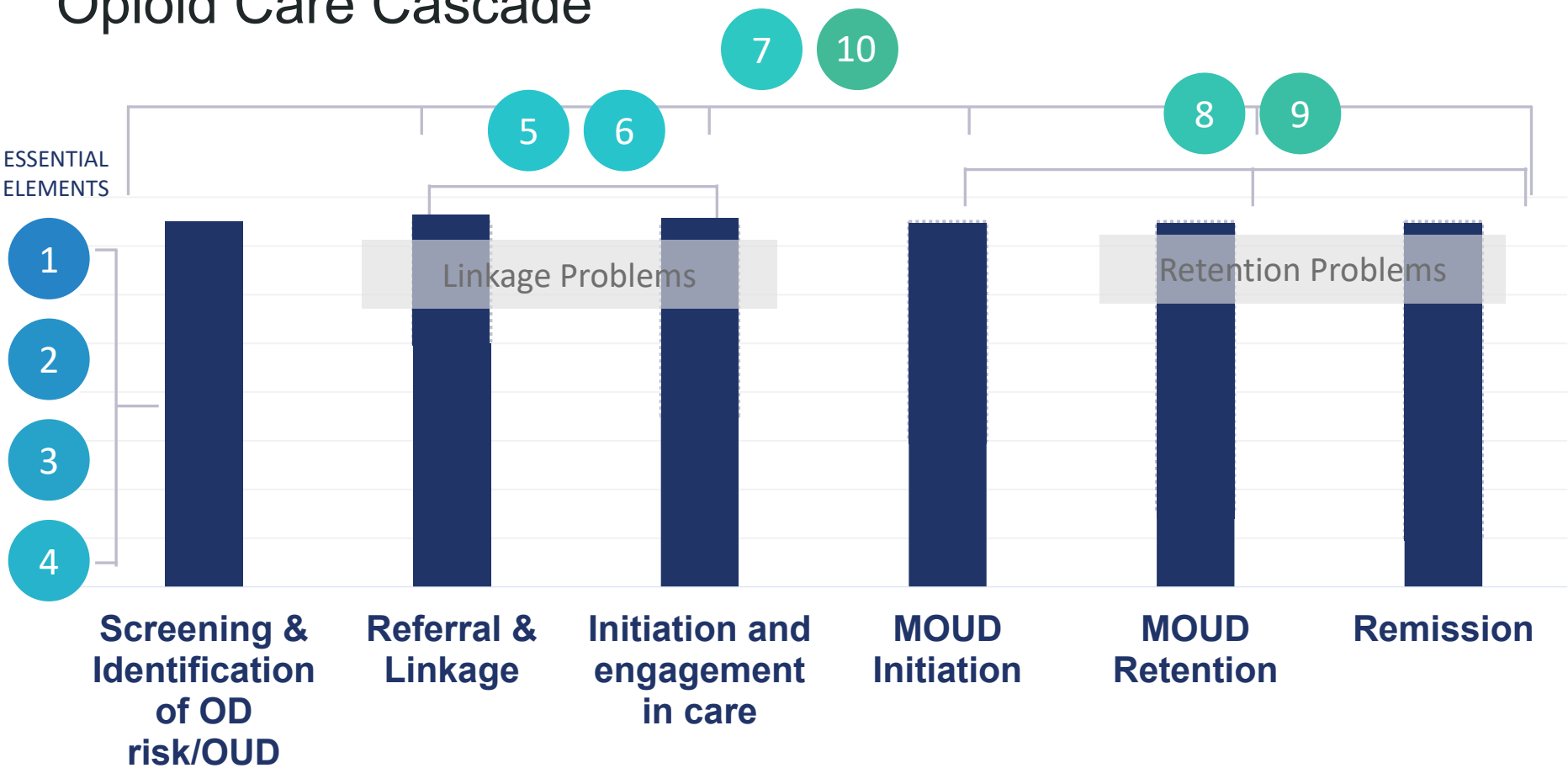


Certified Peers



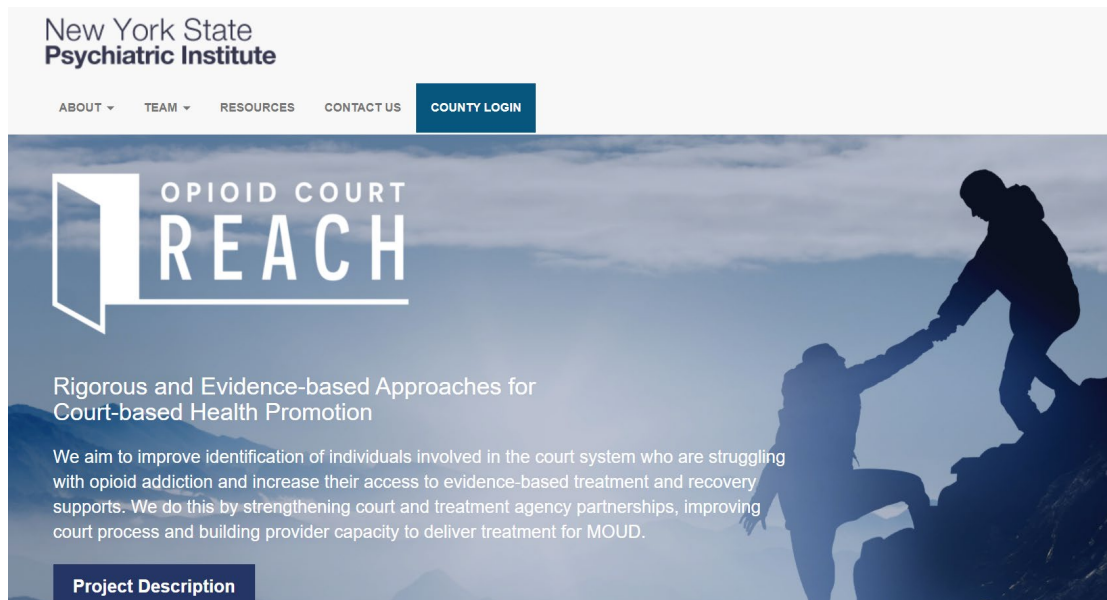
Law Enforcement,
Probation, Pre-Trial
Services

Opioid Care Cascade



Technical Assistance Initiatives

Project Opioid Court REACH
Opioid Expansion in New York State
Harm Reduction and MOUD



The Ten Essential Elements of Opioid Courts: Participant Eligibility and Enrollment

#1: Broad Legal Eligibility

Opioid intervention courts should accept the broadest range of charges possible, ideally including felony and misdemeanor charges.

Eligibility should rest primarily on the defendant's clinical needs, rather than the crime charged

Federally funded programs are not permitted to accept violent offenders

#2: Immediate Screening for Risk of Overdose

Use a specialized screening tool to identify individuals who are at high risk of overdose, ideally within hours of arrest

Screening administered by court staff, pretrial services, or another partner agency should be universal and immediate

Information obtained through screening must be protected in accordance with federal and state confidentiality laws and professional ethics

Information should be shared only with defense counsel until defense counsel consents to broader release

#3: Informed Consent after Consultation with Defense Counsel

Every person who screens positive for risk of overdose and who also meets legal eligibility criteria should be offered the opportunity to enter after consultation with defense counsel

Defense counsel should be on hand to advise clients as immediately as possible after overdose screening

Defendants who agree to participate should have their cases transferred without delay

#4: Suspension of prosecution or expedited plea

Suspend prosecution of the case for the duration of the program, allowing the participant, the court, and the treatment providers to focus on clinical stabilization, or

Expedite the plea process and facilitate the rapid resolution of the legal case so that treatment inception is not delayed by legal procedures

The Ten Essential Elements of Opioid Courts: Linkage to Treatment

#5: Rapid Clinical Assessment and Treatment Engagement

Defendants should receive a comprehensive clinical assessment and rapidly engage in evidence-based treatment services ideally within 24 hours of arrest

Medication-Assisted Treatment should be offered to all participants as medically appropriate, following informed consent, and ideally within 24 hours of arrest

Treatment plans should be developed in partnership with the participant and should consider participant's unique mental and physical health, trauma, and other needs

#6: Recovery Support Services

Offer participants a broad range of evidence-based recovery support including secular alternatives

Utilize peer recovery advocates to help participants engage in the program

Assist participants with medical needs, trauma-related care, housing, transportation, and where available, partner with family support navigators who can help address the impact of opioids on the entire family

The Ten Essential Elements of Opioid Courts: Monitoring and Supervision

#7: Frequent Judicial Supervision and Compliance Monitoring

Require participants to return to court frequently for supervision and monitoring to replace daily drug seeking behavior

Use evidence-based techniques, like motivational interviewing, to engage participants in strengths-based conversations about their progress

Require participants to undergo frequent, random drug testing using evidence-based drug testing protocols

Avoid imposing punitive sanctions for positive drug tests and work with treatment partners to adjust the participant's treatment plan to achieve clinical stabilization

#8: Intensive Case Management

Case managers employed by the opioid intervention court or a partner agency should help to ensure and prioritize necessary treatment and recovery supportive services

Case managers act as liaisons between the court, supervision agencies, and service providers to coordinate the ordering and timing for services

The Ten Essential Elements of Opioid Courts: Participant Completion and Program Evaluation

#9: Program Completion and Continuing Care

Require participants to complete a minimum of 90 days of treatment and supervision to achieve stabilization and lay a foundation for longer-term treatment

Eligible participants should be assessed for possible enrollment in longer-term programs, like a drug court, mental health court, or veterans treatment court

Where a legal case can be resolved at the conclusion of the 90-day stabilization period, participants should be offered continuing care planning

#10: Performance Evaluation and Program Improvement

Opioid courts should collect data around clearly-defined, participant-level performance measures

Courts should meet at least annually as a team to analyze data, ideally with the help of a qualified research partner, to identify service gaps and make program improvements

Beyond the Opioid Intervention Court Model

Immediacy of intervention :

Arrest = disruption of use/routine

Waiting for treatment increases overdose risk

Crucial window of risk and opportunity

Expect/respect withdrawal

MOUD offers potentially life-saving
clinical stabilization

Safety planning > perfection



Beyond the Opioid Intervention Court Model

Methadone:

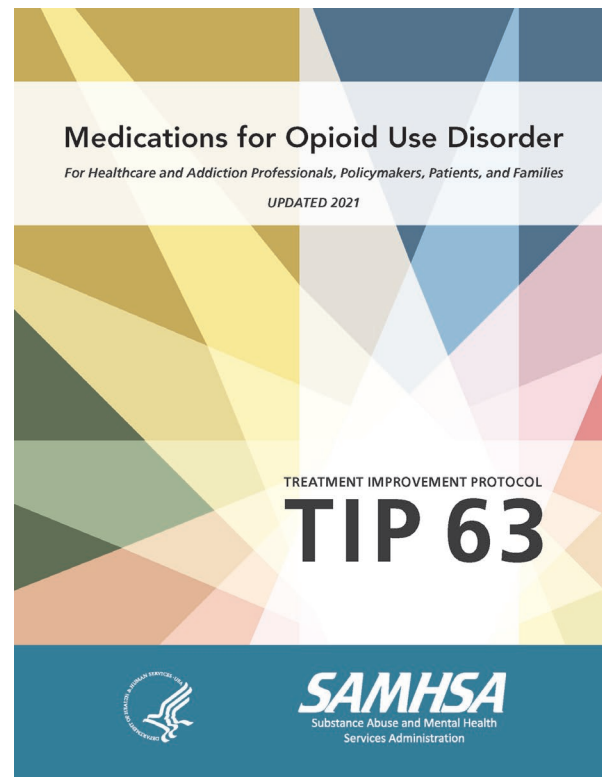
- Full agonist, maintains tolerance
- Some euphoric, painkilling effects
- No ceiling effect
- Diversion potential

Buprenorphine:

- Partial agonist, maintains tolerance
- Limited euphoric effects / has a 'ceiling effect'
- Suboxone formulation contains naloxone
- Less diversion potential

Naltrexone:

- Antagonist, does not maintain tolerance
- Blocks the euphoric, painkilling effects of opioids
- Some overdose risk upon treatment completion



Beyond the Opioid Intervention Court Model

Medications for opioid use disorder:

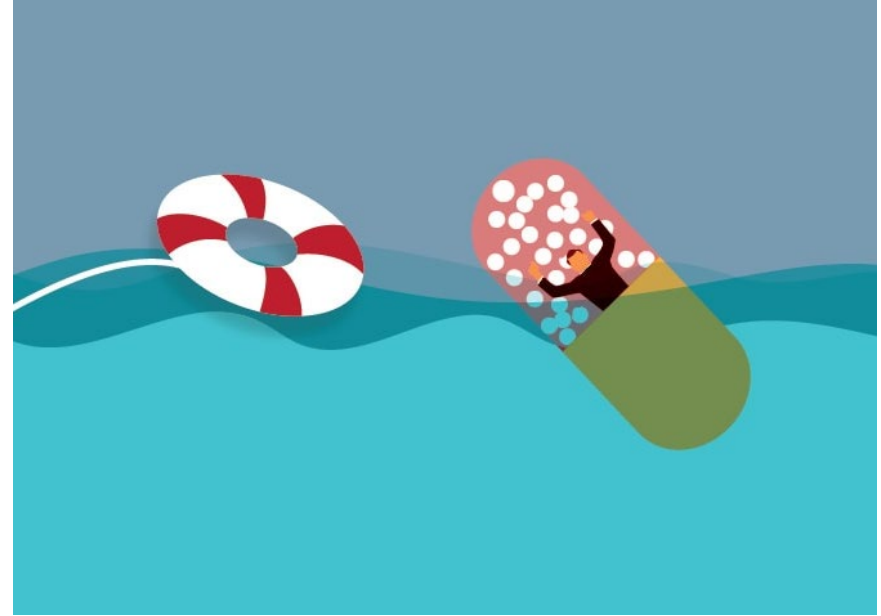
- Concerns

- 'Diversion' of MOUD

- Clinical decision

- NADCP's position

- Federal funds are tied to allowing MOUD



Overdose Avoidance and Recovery (OAR) Court

Launched in Bronx County, NY in 2017 for
misdemeanor defendants **pre-plea**

For high utilizers of multiple systems who
are at **risk of overdose**

Self-directed approach based on
participants' **motivation** , **participation** , and
harm reduction stabilizing factors

Incentivizes **engagement** (e.g., completing
intake and enrollment, maintaining
treatment schedule, conducting regular
toxicology screenings)

No mandates or sanctions

Upon successful completion, case is
dismissed and sealed



For more information:

COURT RESPONSES TO THE OPIOID EPIDEMIC: HAPPENING NOW

Heroin, prescription pain relievers, and synthetic opioids like fentanyl have contributed to a national epidemic. More than 70,200 Americans died from drug overdose in 2017, and more than two-thirds of these deaths involved opioids. Overdose deaths have increased by double-digit percentages each year since 2014.

This epidemic poses special challenges for the justice system. Opioid-related arrests have spiked. Police, probation officers, and court staff are being trained to administer overdose reversal medication. Jails are overseeing the detoxification of incarcerated opioid users. In the face of these pressures, justice officials across the country are working to develop new, more effective responses to opioid-related crime.

For decades, drug courts have been the leading model serving court-involved individuals with opioid use disorders, and they continue to play a central and irreplaceable role in combating the opioid crisis. Drug courts alone, however, are not enough. New justice system approaches are needed to prevent overdose deaths through immediate access to evidence-based treatment—including medication-assisted treatment—and wraparound supports. This document provides a snapshot of some of the strategies being used by courts and justice system practitioners around the country to prevent overdose deaths and save lives.

OPIOID INTERVENTION COURTS

1. BUFFALO OPIOID INTERVENTION COURT



Overdose deaths in the state of New York have been steadily climbing for seven consecutive years and exceed the national average, in large part due to the arrival of illicit fentanyl. In response, New York's Unified Court System, a pioneer in the treatment court field for decades, developed the country's first opioid intervention court in Buffalo in 2016.

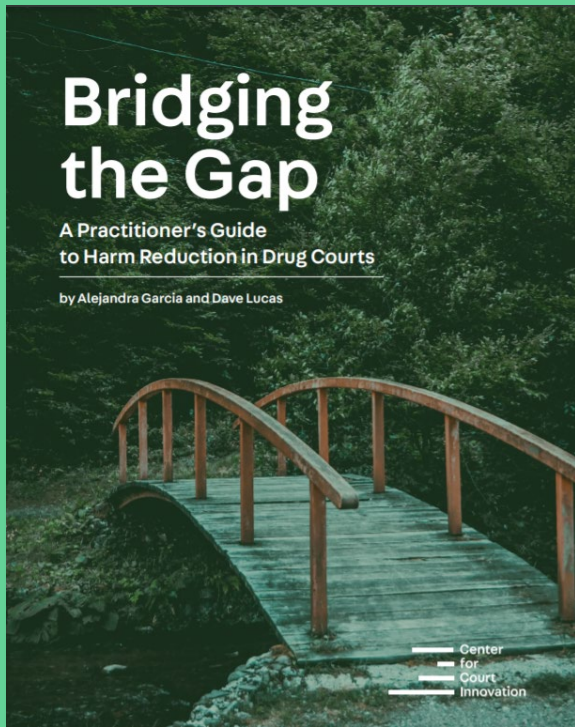
Created with the explicit goal of saving lives, the Buffalo Opioid Court relies on day-of-arrest intervention, evidence-based treatment, daily judicial supervision, and wrap-around services to prevent overdose death. Prior to arraignment, court staff go to the jail and interview defendants, using a brief survey developed by the court, to identify those at risk of opioid overdose. Those at risk for overdose receive a brief bio-psycho-social screening, which is administered immediately following arraignment by an on-site team of treatment professionals and case coordinators. Based on the results, each consenting individual is transported to an appropriate treatment provider, where most begin medication-assisted treatment with buprenorphine, methadone, or naltrexone. The process of initial interview, arraignment, bio-psycho-social screening, and transfer to treatment is completed within 24 hours of arrest.

Once connected with a treatment provider, the participant receives a comprehensive clinical assessment and an individualized treatment plan. Opioid intervention court staff provide daily case management for

Bridging the Gap

A Practitioner's Guide to Harm Reduction in Drug Courts

by Alejandra García and Dave Lucas



Center
for
Court
Innovation

520 Eighth Avenue
New York, NY 10018
p. 646.386.3000
f. 212.397.0985
courtinnovation.org

For more information about the opioid epidemic and available training and technical assistance, contact Aaron Arnold, Director of Technical Assistance, at arnold@courtinnovation.org.

Center
for
Court
Innovation

Center
for
Court
Innovation

Incorporating Medication in Opioid Courts

Reducing Overdose Through Triage in Treatment Court Settings



Office of Addiction
Services and Supports



Opioid
Response
Network

www.courtinnovation.org

Questions?

garciaa@courtinnovation.org