Harm Reduction’s Role in Helping People Return Safely from Prison and Jail

Scott Burris
Professor of Law and Public Health
Why Harm Reduction Matters

• An effective approach to reducing the harms of drug use, supported by evidence and experience

• People who end up in prisons and jails are also at risk of harm from substance abuse disorder (SUD) and criminal justice policies. Leaving prison is acutely risky for people who use drugs

NB: The social harm of drug use = the harms caused by the drugs + the harm caused by the regulation of drugs
Harm Reduction in the Matrix of Interventions

<table>
<thead>
<tr>
<th></th>
<th>Individual factors</th>
<th>Clinical and social services</th>
<th>Laws, policies and legal practices</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Before incarceration</strong></td>
<td>Education Work SUD Housing</td>
<td>Housing support Access to MAT Access to harm reduction services</td>
<td>LEAP and other non-arrest strategies Integrate MAT into drug court options Drug decriminalization</td>
</tr>
<tr>
<td><strong>During incarceration</strong></td>
<td>Education Work SUD</td>
<td>Access to MAT Discharge planning to maintain MAT Access to harm reduction services, including naloxone and OD training</td>
<td>Reduce legal barriers to MAT</td>
</tr>
<tr>
<td><strong>After release</strong></td>
<td>Understanding of overdose risks Education Work SUD</td>
<td>Access to MAT Housing, vocational and educational services and supports Access to harm reduction services</td>
<td>Regulation to protect users from exposure to poor quality treatment and fraud Ban the box Access to public housing, student loans etc</td>
</tr>
</tbody>
</table>
Key Harm Reduction Interventions

- Syringe Access Programs
- Naloxone training and distribution
- Good Samaritan Laws
- Safe Injection Facilities (CUES)

→ Low-threshold MAT
Naloxone: Universally Adopted
Good Samaritan: Not So Much
Syringe Exchange: Even Worse

Has a Drug Paraphernalia Law That Includes Syringes

Positively Authorizes SEP

Keep in mind that syringe law generally happens at state level; risk and SEP is local
A Safe, Hygienic Space to Inject
Safe Consumption Spaces Have a Track Record
Safe Consumption Spaces Have an Evidence Base

- Reduced public drug use
- Reduced overdose death
- Increased drug treatment access
- Reduced street needle litter
- Increased HIV treatment access
- Reduced HIV risk behaviors

Broadhead Kimber Kinnard KPMG NCHIV Polier Salmon Vecino Wood

Van Beek KimberDolan Kerr Marshall Milloy Zobel

Des Jarlais Kerr McNeil Milloy Stoltz Petrar Pinkerton Zobel

Center for Public Health Law Research
The figure above is a combination bar and line graph showing hospital costs for persons with drug dependence–associated endocarditis and the percentage increase since 2010 in North Carolina during 2010–2015.

A Fiscal Elephant in the Room

• The North Carolina study estimated the median treatment cost at $54,281
• In Philadelphia and suburbs between 2008 and 2015, there were 2552 patients with infective Endocarditis, of which 604 (23.7%) had co-occurring opioid use diagnose.
• Are we looking at $32,785,724? Did I hear you say “social impact finance?”
A Simple Starting Point

All state and most local governments have the authority to authorize and fund reasonable public health measures.

A CUES is clearly a reasonable health measure.

States and cities can authorize CUES*
The Asterisk

States and cities can authorize CUES*

but

They cannot exercise this power in a manner that violates other law

so

So does a CUES violate any laws?
“Everything is permitted unless it is prohibited.”

• There is NO LAW that currently prohibits CUES in explicit terms.

• There ARE laws that could be interpreted to prohibit or limit CUES
  – §856 of the federal Controlled Substances Act (and equivalents in some states)
  – Nuisance laws
  – Federal and state prohibitions on illegal possession of controlled substances
  – Property confiscation provisions
A useful analogy

Under federal law, marijuana is a Schedule I controlled substance with no legitimate medical or other use.

Nevertheless…

27 states and DC authorize medical marijuana

8 states and DC authorize recreational marijuana
Why Harm Reduction Matters
(2)

- An effective approach to reducing the harms of drug use, supported by evidence and experience

- A way of approaching drug use that is more important than ever:
  - Accepts reality (and ubiquity) of drug use in our society
  - Rejects stigma in favor of full acceptance of humanity of people who use drugs
  - A public health approach to substance use