



Impaired Driving Solutions

RISE25

Intent v. Impact

Are we set up to fail?

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Caution: Possible Fail Ahead

Structure

Technology

Treatment & Recovery

Responding to Behavior



Structure



Program Entry



PERIOD OF SOBRIETY

- If able, do they need us?
- Compulsive substance use

ACCEPTANCE

- Stage of change?
- High degree of ambivalence among impaired drivers

Program Entry

DISMISSED/REDUCED CHARGES (IMPAIRED DRIVERS)

- Loss of support from stakeholders
- Future prosecution and sentence

USE OF SCREENING TOOLS

- Just a snapshot... requires assessment



Program Requirements



SAME FOR ALL PARTICIPANTS

- Individualization
- Meaningful programming

FIXED LENGTHS OF TIME

- Treatment: SUD is a chronic condition
- More on time in phase later...

Program Requirements



KEEPING THE PARTICIPANT BUSY

- Front-end loading
- Idle hands...
- “Work-Life” balance



Treatment Court Expectations

- Attend court
- Attend treatment
- Supervision appointments
- Submit to testing
- Attend other ancillary services
- Seek/Maintain employment and/or go to school
- Community service
- Stable housing
- Establish and maintain pro-social activities
- Support groups
- Life skills
- Volunteerism/give back
- Support peers
- Build recovery capital

Meanwhile... Life Goes On

- 
- Maintain/seek employment
 - Support family
 - Childcare
 - Housing
 - Health
 - Education
 - Hobbies/interests
 - Sobriety
 - Peer network
 - Maintain/build relationships
 - Manage crisis
 - Early recovery

Key Questions

- Have we accurately and considerably assessed each participant?
- Do we have too many requirements at the beginning?
- Are we expecting too much – attendance/engagement – from the participant as to their ability?
- Ability to navigate transportation?

Program Requirements



MANDATORY LIFE ACHIEVEMENTS

- Job, school, GED...
- Obtain a driver's license

ATTENDANCE IS PROXIMAL

- Transportation considerations

Transportation Options

- What options are available to the participant?
- Can we assume family and/or peers are readily available?
- If public transportation is available...
 - Is it reliable?
 - Does the participant know how to use the system?

Transportation Options

- Are our ideas of transportation and the expectation of attendance/timeliness realistic?
- Have you attempted to experience life and expectations without a license?

Impact of Costs

WHEN MANDATING REQUIREMENTS, HAVE WE CONSIDERED THE COSTS ASSOCIATED WITH THE REQUIREMENT AND THE POTENTIAL IMPACT ON THE PARTICIPANT?

- License reinstatement
- Technology/Testing
- Public transportation
- Ride apps
- Parking
- Gas, car upkeep

Reliable attendance is a primary factor in achieving “psychosocial stability”

Impact of Costs

Some people who owe financial sanctions “remain trapped in the criminal legal system, and are exposed to greater debt, harsh punishments, longer involvement in the system, financial tumult, barriers to obtaining wealth and stability, and the near-constant threat of incarceration.” –*“Paying on Probation” Harvard Law School (2020)*

Resources devoted to collecting and enforcing fees and fines could be better spent on efforts that actually improve public safety.

–*“The Steep Costs of Criminal Justice Fees and Fines” Brennan Center for Justice (2019)*

Indebtedness has serious effects on health.

–*“Health Effects of Indebtedness: A Systematic Review” Turunen & Hiilamo (2014)*

Technology





Alcohol and Drug Testing

USING MULTIPLE METHODS AT ONCE

- If you trust the technology, why duplicate efforts?
- Can cause confusion on results... positive and negative?

EXTENDING USE

- May result in helplessness/apathy
- Reliance on testing may fail to build self-esteem and skill-building

Alcohol and Drug Testing



SLOW OR FAILURE TO RESPOND

- Technology is only as good as the human response

COST CONSIDERATIONS

- Who pays?
- Is it monetarily feasible for the participant?



Technology Partners



- Multiple systems = multiple processes
- Potential confusion and frustration
- How well do we know our providers?
- How well do our providers know us?

Using Technology

What is the goal for using technology?

Treatment & Recovery



Attend Treatment

ATTEND

- Doing time not treatment

COMPLIANCE

- Interventions do not match stage of change
- Not tailored to individual needs



Compliance vs. Adherence

COMPLIANCE

- Focuses on following the rules of the program
- It is often “doing the time” in a treatment setting rather than “doing the treatment and change.”
- Treatment providers and others should focus on moving clients beyond compliance as essential to progress

ADHERENCE

- Actual commitment is driven by factors important to the individual
- Treatment adherence allows for matching the client’s stage of change to facilitate accountable, lasting change
- Meaningful adherence improves when the client has choice and voice, even when the choices are limited

Achieving Adherence

- Setting realistic goals
- Ensuring barriers do not get in the way of attendance
- Choice and voice
- Establishing alliance(s)
- Motivation – Insight – Skill-building

Attend Treatment

FOLLOW THE RULES AND DO THE WORK

- Often subjective based on “experience”
- Outcomes/engagement subjectively measured

MISSES OPPORTUNITY FOR THERAPEUTIC ALLIANCE



Therapeutic Alliance

The therapeutic alliance was consistently a predictor of outcome for all the measures of treatment outcomes.



Treatment Delivery



GROUP THERAPY

- Treating more could result in mixed populations
- Checking the box versus symptom reduction
- Not all individuals are group ready

Treatment Delivery



TWO OR FEWER TREATMENT AGENCIES

- Two or fewer may limit treatment options
- Understand the research
- Ethical considerations

SUPPORT GROUPS

- Does not replace treatment
- Options

EDUCATION PROGRAMMING

- Does not replace treatment



MAT and Rx





PROHIBITING/MANDATING/TITRATING USE MAT & RX

- Blanket prohibitions and mandates are unconstitutional
- Not individualized treatment
- Delaying treatment progress
- Potential for causing harm to participants
- It is not substituting one drug for another
- Different pathways to recovery

Are Individuals Receiving MAT Protected By Federal Disability Laws?

FACT SHEET: DRUG ADDICTION AND FEDERAL DISABILITY RIGHTS LAWS



DRUG ADDICTION AND FEDERAL DISABILITY RIGHTS LAWS

WHEN IS A DRUG ADDICTION A DISABILITY UNDER FEDERAL DISABILITY RIGHTS LAWS?

Drug addiction, including an addiction to opioids, is a disability under Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and Section 1557 of the Affordable Care Act, when the drug addiction substantially limits a major life activity.¹

WHEN DOES AN INDIVIDUAL WITH A DRUG ADDICTION “QUALIFY” AS AN INDIVIDUAL WITH A DISABILITY UNDER FEDERAL ANTIDISCRIMINATION LAWS?

To be protected by federal disability rights laws, an individual with a disability, must be a “qualified” individual with a disability, which means that the individual must meet the essential eligibility requirements for receipt of services or participation in a covered entity’s programs, activities, or services. Under these laws, qualified individuals with a disability may not be excluded from participation in programs and services, be denied the benefits of, or otherwise be subjected to discrimination based on the disability. In addition, covered entities are required to reasonably modify rules, policies or practices, provide appropriate auxiliary aids and services, or remove architectural and communication barriers to ensure equal opportunities for qualified individuals with disabilities.

Federal disability rights laws also protect individuals if they:

- Have successfully completed a supervised drug rehabilitation program or have otherwise been successfully rehabilitated and are not currently engaged in the illegal use of drugs;
- Are participating in a supervised drug rehabilitation program and are currently not engaged in the illegal use of drugs; or
- Are erroneously regarded as engaging in such use, but are not engaging in such use.

WHO MUST COMPLY WITH THE LAW

Any entity that receives federal financial assistance from the U.S. Department of Health and Human Services must comply with federal nondiscrimination laws. Covered entities may include, but are not limited to:

¹ Examples of major life activities include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. Major life activities also include the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestion, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

FACT SHEET: DRUG ADDICTION AND FEDERAL DISABILITY RIGHTS LAWS

- Substance Use Disorder Treatment Programs
- Hospitals and Health Clinics
- Pharmacies
- Contracted Service Providers
- Medical and Dental Providers
- Nursing Homes
- Child Welfare Agencies
- State Court Systems

In addition, state and local governments are prohibited from discriminating on the basis of disability.

EXCEPTION CONCERNING CURRENT ILLEGAL USE OF DRUGS

Individuals who currently engage in the “illegal use of drugs” are specifically excluded from the definition of an individual with a disability when a covered entity takes an adverse action on the basis of that current use. However, an individual is not to be denied health services, or services provided in connection with drug rehabilitation, vocational rehabilitation programs and services, and other programs and other specific programs and services funded under the Rehabilitation Act on the basis of the current illegal use of drugs if the individual is otherwise entitled to such services.

ARE INDIVIDUALS RECEIVING MEDICATION ASSISTED TREATMENT PROTECTED BY FEDERAL DISABILITY RIGHTS LAWS?

Medication Assisted Treatment (MAT) has been shown to be an effective treatment to address opioid misuse and addiction. MAT is the use of FDA-approved medications, such as buprenorphine, methadone, and naltrexone, in combination with counseling and behavioral therapies to treat an opioid use disorder or other substance use disorders. The determination of whether an individual receiving MAT is entitled federal disability rights protections is a fact-specific inquiry based on the criteria described above. However, persons receiving MAT cannot be, by virtue of that fact, excluded from protection under federal disability rights laws. Because MAT related medications are prescribed and are taken under the supervision of a licensed health care professional, MAT is not the illegal use of drugs.

FOR MORE INFORMATION

If you are interested in learning more about how federal civil rights laws protect qualified individuals with an opioid use disorder, as well as OCR’s important work on how HIPAA allows the appropriate sharing of important health information about individuals who are in crisis due to opioid addiction, visit OCR’s website at: www.hhs.gov/ocr/opioids.

For more help, information and helpful resources concerning opioid prevention, treatment and recovery, visit HHS’s opioids website at: www.hhs.gov/opioids.

DISCLAIMER: This guidance document is not a final agency action, does not legally bind persons or entities outside the Federal government, and may be rescinded or modified at the Department’s discretion. Noncompliance with any voluntary standards (e.g., recommended practices) contained in this document will not, in itself, result in any enforcement action.

October 23, 2018

¹ Illegal use of drugs means the use of one or more drugs, the possession or distribution of which is unlawful under the Controlled Substances Act. It does not include use of controlled substances pursuant to a valid prescription, or other uses that are authorized by the Controlled Substances Act or other Federal law. Alcohol is not a “controlled substance.” But alcoholism is a disability if it substantially limits one or more major life activities.

“Because MAT related medications are prescribed and are taken under the supervision of a licensed health care professional, MAT is not the illegal use of drugs.”

“Persons receiving MAT cannot be, by virtue of that fact, excluded from protection under federal disability rights laws.”

U.S. Department of Justice Action – 2022

Department of Justice Finds PA Court System Violated Federal Law By Banning Medication for Opioid Use Disorder

Sally Friedman, Rebekah Joab


February 3, 2022

As stated in the Department of Justice's (DOJ) letter of findings, "The Department has determined that the UJS, through the actions of its component courts, violated Title II of the ADA by at times prohibiting and at other times limiting the use of disability-related medication to treat OUD by individuals under court supervision."

Department of Justice

U.S. Attorney's Office

District of Massachusetts

SHARE 

FOR IMMEDIATE RELEASE

Thursday, March 24, 2022

U.S. Attorney's Office Settles Disability Discrimination Allegations with the Massachusetts Trial Court Concerning Access to Medications for Opioid Use Disorder

BOSTON – United States Attorney Rachael S. Rollins announced today that an agreement has been reached with the Massachusetts Trial Court to resolve allegations that its drug court violated the Americans with Disabilities Act (ADA) by discriminating against individuals with Opioid Use Disorder (OUD).

Recovery Support Groups



ENGAGE IN EARLY AND OFTEN

- Mandating too soon
- What's the research say about the number of meetings?
- Balancing act
 - Other requirements
 - Life
- What meetings are available and “approved”?



Recovery Capital Research in Treatment Courts

A 2016 study found that treatment court clients had
“restricted recovery capital portfolios” (*n=34*)

Drug Testing



USE OF CLINICAL TESTING

- Difference between clinical and forensic testing
- Frequency of testing
- Ethical issues
 - Clinical
 - Billing
 - Sharing

Responding to Behavior



Certainty and Fairness



CERTAINTY OF RESPONSE

- Doesn't allow for consideration of factors influencing behavior

TREATING EVERYONE THE SAME

- Individualizing all programming
- Reasonable expectations for life changes

Lack of Progress and Setbacks



SANCTIONING FOR DISTAL GOALS

- Service adjustments until “early remission” is achieved **and** developed coping skills and resources to achieve the goal
- For proximal goals... reevaluate

PHASE DEMOTION

- Taking away an incentive is demoralizing
- Gives the wrong message – all or nothing
- What happened and what additional support is needed?

Phase Advancement



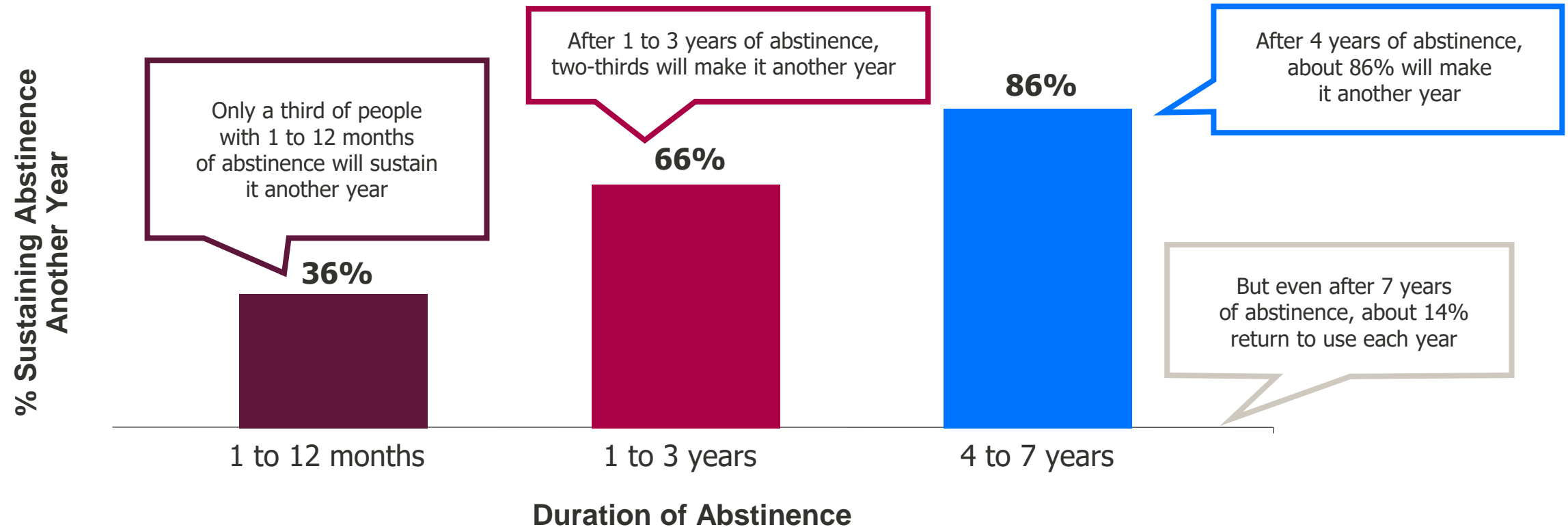
FIXED LENGTHS OF TIME TO ADVANCE AND PERCEIVED EXPECTATIONS OF TIME

- No one is the same – doesn't allow for remarkable progress or traumatic events
- Is time a true measure of progress?

DAYS OF ABSTINENCE

- What does abstinence tell us?

Likelihood of Sustaining Abstinence Grows Over Time



Source: Dennis, Foss & Scott (2007)

Responding to Use

SANCTIONING FOR USE

Creating an expectation that may be impossible to achieve

EXPECTATION OF HONESTY

Does our response support honesty?

Accept

- A**ssess what is and is not working in the treatment plan
- C**hange the treatment plan to address those identified problems or priorities
- C**heck the treatment contract if the participant is reluctant to modify the treatment plan
- E**xpect effort in a positive direction – “do treatment” not “do time”
- P**olicies that permit mistakes and honesty; not zero tolerance
- T**rack outcomes in real time – functional change (attitudes, thoughts, behaviors” not compliance with a program

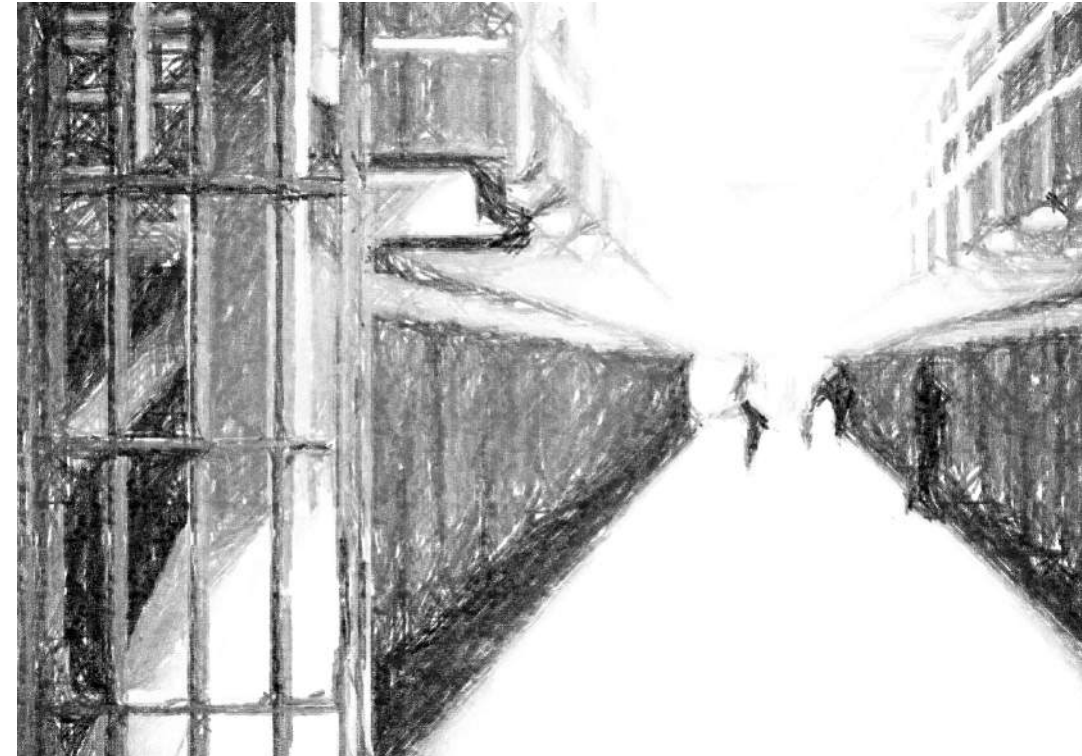
Using Jail

AS A SANCTION

- Not everyone responds to jail in the same way
- Ceiling effect
- Long jail terms have a reverse effect

AS A RESPONSE TO USE

- Balancing public safety and therapeutic responses
- Keeping the participant “safe” could cause death



Why We Do Not Incarcerate for Use

Among women incarcerated in local jails, the average annual mortality rate due to drug/alcohol intoxication was nearly twice that of their male counterparts.

The median length of stay in jail before death from alcohol or drug intoxication was just **one day**.

BUREAU OF JUSTICE ASSISTANCE

MANAGING SUBSTANCE WITHDRAWAL IN JAILS: A LEGAL BRIEF

A disproportionate number of people in jails have substance use disorders (SUDs).¹ Incarceration provides a valuable opportunity for identifying SUD and addressing withdrawal.² Within the first few hours and days of detainment, individuals who have suddenly stopped using alcohol, opioids, or other drugs may experience withdrawal symptoms, particularly when they have used the substances heavily or long-term. Without its identification and timely subsequent medical attention, withdrawal can lead to serious injury or death.

Deaths from withdrawal are preventable, and jail administrators have a pressing responsibility to establish and implement withdrawal policy and protocols that will save lives and ensure legal compliance. This brief describes the scope of the challenge, provides an overview of constitutional rights and key legislation related to substance use withdrawal, and outlines steps for creating a comprehensive response to SUD.

Scope of the Challenge

Among sentenced individuals in jail, 63 percent have an SUD, compared to 5 percent of adults who are not incarcerated.³ From 2000 to 2019, the number of local jail inmates who died from all causes increased 33 percent; the number who died from drug/alcohol intoxication during the same period increased 397 percent.⁴ Among women

* As noted in the Substance Abuse and Mental Health Services Administration's *Use of Medication-Assisted Treatment for Opioid Use Disorder in Criminal Justice Settings* (2019), medically supported withdrawal (also referred to as medical detoxification) is "designed to alleviate acute physiological effects of opioids or other substances while minimizing withdrawal discomfort, cravings, and other symptoms."

When Kelly Coltrain was booked for unpaid traffic violations in 2017, she told jail staff that she was drug dependent and had a history of seizures. Her request to go to the hospital for help with withdrawal symptoms was denied. She was placed in a cell that required 30-minute checks, but these checks rarely occurred. For the next 3 days, she was observed (by video camera) vomiting, sleeping often, and eating little. On her third night in jail, she started convulsing; then, all movement ceased. For at least the next 4 hours, no deputies or medical staff came to the cell to determine why she was still. Kelly's family filed a wrongful death suit, which was settled in 2019 for \$2 million plus 4 years of federal district court monitoring of the jail during implementation of new policies and procedures to ensure proper care of inmates at risk of withdrawal.⁵

incarcerated in local jails, the average annual mortality rate due to drug/alcohol intoxication was nearly twice that of their male counterparts.⁶ The median length of stay in jail before death from alcohol or drug intoxication was just 1 day,⁷ indicating that individuals on short stays, including those who are detained in pretrial status, are equally at risk.

It is not uncommon for individuals to experience substance withdrawal at the time of entry into jail, when access to their drug of choice is abruptly stopped. Estimates within specific regions vary widely, from 17 percent of people entering New York City jails being in acute opioid withdrawal⁸ to a record 81 percent of people entering a Pennsylvania county jail needing detoxification services—half of them for opioid use disorders.⁹

This project was supported by Grant No. 2019-JOBX-0061 to Advocates for Human Potential, Inc., awarded by the Bureau of Justice Assistance, a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking. Advocates for Human Potential, Inc. was supported by the Addiction and Public Policy Initiative of the O'Neill Institute for National and Global Health Law at Georgetown University Law Center. This project was developed in partnership with the National Institute of Corrections, an agency within the Department of Justice's Federal Bureau of Prisons.



February 2022
<https://bja.ojp.gov>

Final Words

- Be sure that the program intent achieves the anticipated impact
- Understand the research and apply is appropriately
- Individualization matters



**“THE ROAD TO HELL IS PAVED
WITH GOOD INTENTIONS.”**

--ENGLISH PROVERB

Julie Seitz, IDS

jseitz@allrise.org



Jim Eberspacher, IDS

jeberspacher@allrise.org