



ISSUE BRIEF

The Massachusetts Health Policy Forum



Harvard Pilgrim
Health Care Foundation



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To Improve System Performance Of
Substance Use Disorder Treatment
SUPPORTED BY THE NATIONAL INSTITUTE ON DRUG ABUSE

Improving Access to Substance Abuse Treatment and Reducing Incarceration and Recidivism

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Tuesday, November 17, 2015

8:00 a.m. - 12:00 p.m.

Courtyard Boston Downtown

275 Tremont Street

Boston, MA

This forum was made possible by the support of Blue Cross Blue Shield of MA Foundation and The Harvard Pilgrim Health Care Foundation. The issue brief is also supported by the Brandeis/Harvard Center to Improve System Performance of Substance Use Disorder Treatment.

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NO. 44

Blue Cross Blue Shield of Massachusetts is a sustaining funder of The Massachusetts Health Policy Forum. MHPF is a collaboration of the Schneider Institutes for Health Policy at the Heller School for Social Policy and Management, Brandeis University. The full Issue Brief can be viewed on the MHPF website at www.masshealthpolicyforum.brandeis.edu

Table of Contents

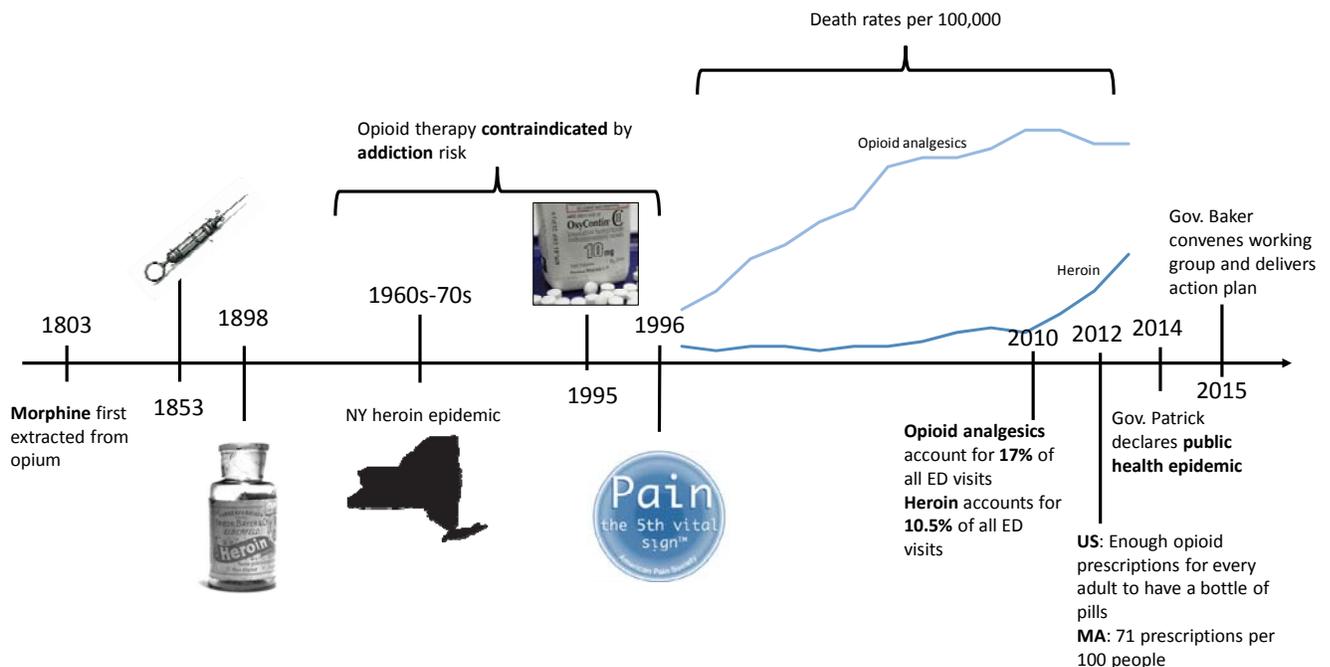
Executive Summary	1
Massachusetts' Opioid Epidemic	1
Substance Abuse Treatment Need and its Relationship to Crime and Incarceration	2
The Foundation for Change	3
Recommendations for Immediate Changes to Increase Access to Treatment	4
Call for Systems and Culture Change	4
Massachusetts Stands Ready for Reform.....	6
I. Understanding of the Problem.....	6
II. Substance Use and Misuse in Massachusetts and Nationally	8
III. Treatment Gaps, Nationally and in Massachusetts.....	9
IV. Social Consequences of Not Receiving Treatment.....	13
V. Economic Consequences of Not Receiving Treatment.....	14
VI. Federal Perspective	14
A. Treatment Works.....	14
B. Opportunities to Improve Access to Treatment	15
C. Criminal Justice System Reforms to Prioritize Treatment Access	16
D. Federal Support for Improvements	17
VII. National and Local Evidence-Based and Promising Practices.....	18
A. Prevention and Pre-arrest Strategies	18
B. Alternatives to Incarceration.....	19
C. Services While Incarcerated	20
D. Probation, Parole and Re-entry Strategies	20
E. Medication-Assisted Treatment (MAT).....	21
F. System Collaborations and Data Sharing	23
VIII. Massachusetts Environment for Reform	24
IX. Recommendations Moving Forward	29
Acknowledgements	35
Works Cited	36

Executive Summary

Massachusetts faces an opioid and substance abuse crisis at the same time the U.S. and Massachusetts have some of highest rates of incarceration in the world. This issue brief examines the problem and economic costs and consequences of untreated substance abuse. It examines the benefits of expanding access to treatment in the community, at arrest and initial detention, within the courts, within jails and prisons, at re-entry and under community supervision, with the intent to reduce substance abuse, incarceration and recidivism and thereby improve health and public safety. The report recommends (1) implementing a pre-arrest program to divert low-level drug offenders to treatment, (2) enhancing and expanding specialty courts throughout the state, (3) increasing access to medication-assisted treatment (MAT), and (4) expanding a Medicaid enrollment program in DOC and HOC facilities to improve access to healthcare services immediately upon release. To facilitate change and judicious invest of resources, it also recommends instating governance structures to coordinate efforts between health and criminal justice organizations within the Executive, Legislative and Judiciary branches of government.

Massachusetts' Opioid Epidemic

Overdoses and deaths due to opioid use have surged since the introduction of OxyContin and other opioid prescriptions. The Massachusetts Department of Public Health (2015) estimates 1,256 deaths in 2014 due to opioid use. Since 2005, the number of deaths due to unintentional opioid overdoses exceed those due to motor vehicles (MDPH, 2014). In 2014 Governor Patrick declared a public health epidemic and in 2015 Governor Baker's Opioid Working Group delivered a far reaching strategic plan with over 65 recommendations to combat the problem.



Created by Lauren Melby, MPP student at the Heller School for Social Policy and Management, Brandeis University, 2015.

Substance Abuse Treatment Need and its Relationship to Crime and Incarceration

While opioid use is growing with devastating consequences, misuse of alcohol and other substances continue to plague the Commonwealth (SAMHSA, 2013). At the same time, Massachusetts lacks sufficient treatment capacity to meet demand. Despite a comprehensive continuum of substance use disorder treatment services, consumers face challenges in accessing services, particularly for acute care, step down and long-term residential beds (CHIA, 2015). We estimate a gap of 726 step down beds given that the current capacity can only serve 17% of the 3,500 people leaving acute treatment services (ATS) each month (CHIA, 2015). These challenges are exacerbated for racial and ethnic minorities and women (Cook & Alegría, 2011). Access to treatment barriers also exist within jails and prisons, where the absence of a continuum of care complicates re-entry and may add to recidivism (Mumola and Karberg, 2007).

The link between access to treatment and reduced engagement with the criminal justice system is clear. People with substance use disorders who lack treatment have more contact with the criminal justice system. Chronic drug users engage in crime 30% more than non-drug users (French et al., 2000). Racial and ethnic minorities and women are at greatest risk due to disparities in treatment access and incarceration (Cook and Alegría, 2011; Honig, 2015). Drug laws that have been in place for more than twenty years result in high levels of incarceration (Drug Policy Alliance, 2015). Massachusetts had 11,308 individuals in state and federal prisons in 2012, 10,326 individuals held in local jails on an average day in 2011 and 70,800 individuals under community supervision in 2012 (Gates et al., 2014). With incarcerations costs over \$53,000 per year, the 1,564 inmates convicted of drug offenses cost Massachusetts \$83.0 million per year (MA DOC, 2014; MA EOPSS, 2014).

While drug use is similar or higher for Whites, incarceration disproportionately affects Blacks and Latinos. In Massachusetts, Blacks and Latinos represent 15% of the population yet account for 33% of convictions and 72% of convictions for mandatory drug offenses (Massachusetts Sentencing Commission, 2012). Although many more males are incarcerated, and at a higher rate than females (Carson, 2014), women who are incarcerated in jails have been identified as the “fastest growing corrections population” since 2010 (Glaze & Kaeble, 2014, p.1). Further, female inmates have more mental health and substance use problems (James & Glaze, 2006; Karberg & James, 2005). Despite these differences, women in Massachusetts who have been placed in confinement for court-ordered treatment due to a substance use problem have had less access to treatment than men in the system.

Involvement in the criminal justice system, particularly incarceration, reduces employment opportunities, decreases wages and impacts the racial/ethnic wage gap, damages family relationships and functioning, and impairs communities (Clear, 2007; Western, 2002). Substance misuse and dependence result in higher healthcare costs, injuries, deaths, lost productivity and crime, all significant areas of impact for individuals, families, and the Commonwealth (Brolin et al., 2005).

The Foundation for Change

Research has demonstrated that treatment works (Harwood et al., 2002; Belenko et al., 2005). For every \$1 invested in treatment, states save up to \$7 due to reduced crime, increased productivity and healthcare savings (Gerstein et al., 1994; Finigan, 1996). People who enter treatment due to coercion from the criminal justice system have longer lengths of stay and similar or better outcomes (Sherman et al., 1997; Aos et al., 2006). Conversely, the criminal justice system does not provide a cost-effective solution for dealing with low-level drug offenders (Lengyel, 2006).

Massachusetts' healthcare reform and the Affordable Care Act bring opportunities to expand access to treatment within the Commonwealth, including better integration with primary and mental health care and improved access to medication-assisted treatment.

Calls for change have come from:

- The Governor's Opioid Working Group, chaired by Marylou Sudders, Secretary of the Executive Office of Health and Human Services, putting forth strategies and recommendations to address the opioid epidemic.
- Governor Baker who filed "An Act Relative to Substance Use Treatment, Education and Prevention", which would provide medical professionals with the authority to involuntarily commit an individual for treatment for 72 hours if they pose a danger to themselves or others (Baker, October 15, 2015).
- State legislators proposing legislation to increase access to treatment, develop alternatives to incarceration and change mandatory minimum laws and sentencing guidelines.
- MassINC's Criminal Justice Reform Coalition supporting sentencing reform, culture change, justice reinvestment, and improved cross-system data systems.
- Members of the Massachusetts judiciary, including Chief Justice Gants, in favor of sentencing reform and the use of specialty courts to divert offenders from incarceration.
- The City of Boston calling for expanded and improved substance use disorder treatment services.
- The New England Comparative Effectiveness Public Advisory Council and The Institute for Clinical and Economic Review endorsing patient-centered opioid treatment in the community and within the criminal justice system.
- Beacon Health Options promoting a chronic care model for the treatment of opioid dependence.
- A national group of law enforcement personnel called Law Enforcement Leaders to Reduce Crime and Incarceration advocating for alternatives to arrest and prosecution that prioritize mental health and substance use disorder treatment.

- President Obama, the first sitting President to visit a federal penitentiary, calling for criminal justice reform, including reductions in/elimination of mandatory minimums for non-violent drug crimes and job training for inmates.

This broad appeal for reform, coupled with the opioid epidemic and lack of treatment capacity, as well as with proven solutions, drives the recommendation for systems reform within Massachusetts.

Recommendations for Immediate Changes to Increase Access to Treatment

Massachusetts should build on existing initiatives to implement immediate practice changes to increase access to treatment. Specifically, policymakers should:

- **Implement a pre-arrest program** to divert low-level drug offenders to treatment rather than booking, building on the Department of Mental Health's Jail Diversion Program.
- **Continue supporting and expanding specialty courts**, including drug courts, to enhance existing specialty courts and diffuse the model to other locations throughout the state.
- **Increase access to medication-assisted treatment (MAT)** within communities and at critical intercepts along the criminal justice continuum (e.g. diversion, incarceration, re-entry).
- **Expand implementation of a Medicaid enrollment program at multiple points of contact on the criminal justice continuum** to improve access to primary care and substance use disorder and mental health services immediately upon release.

In all of its change efforts, partnering organizations should collect and share data to accurately track investment and savings across the systems and to continuously improve the system. Net savings should be reinvested to further improve the system.

Call for Systems and Culture Change

Massachusetts, the latest state to embark on a Justice Reinvestment Initiative (CSG Justice Center Staff, October 29, 2015), has the opportunity to address the opioid epidemic, increase access to substance use disorder treatment services for those in need, decrease incarceration for low-level drug offenders, reduce recidivism rates overall and save millions of dollars, all while improving public health and safety. For example, a natural study of a reduction in inmates in Hampden County between 2008 and 2012 suggests that a 14% decrease in jail and prison pretrial and sentenced inmates across the Commonwealth could lead to \$6 million in savings each year (Jones and Forman, 2015). Expansion of community-based treatment, treatment in jails and prisons, alternatives to incarceration and re-entry treatment support could help the Commonwealth save millions more. Through its Justice Reinvestment Initiative, which will reduce the growth in the state's prison population, Washington State expects to save \$193 million in new construction costs and \$98 million in operation costs over the next six years (CSG, 2015). For Massachusetts to achieve such broad improvements, however, we will need to change the way we do business

This systems change would build on recent efforts by the Governor, Attorney General and Secretary of Health and Human Services. It would also build on the movement for reform within the Executive, Legislative, and Judiciary branches of government and among local law enforcement agencies. Such systems change would have to involve all key agencies, including the Department of Public Health (DPH), Department of Mental Health (DMH), and the myriad of law enforcement and criminal justice agencies, including the independently elected sheriffs and District Attorneys. These agencies operate in multiple layers and branches of government with varying cultures, policies and priorities. This change would require a shared mission and strategy supported at the highest levels and diffused throughout the partnering agencies. Success requires incorporating the expertise of providers, advocates and consumers to fully understand the changes that are needed and the best ways to implement them.

We propose two alternative governing structures as a way to achieve this systems change. First, the Governor could revitalize the Massachusetts Interagency Council on Substance Abuse and Prevention. Established May 16, 2005 by Governor Romney and re-established in 2008 by Governor Patrick, this Council:

- Oversees implementation of initiatives and programs that effectively direct the existing resources and minimize the impact of substance misuse; and
- Develops and recommends formal policies and procedures for the coordination and efficient utilization of programs and resources across state agencies and secretariats.

The Council is chaired by the Lieutenant Governor and includes representatives from the Executive Office of Health and Human Services; the Executive Office of Public Safety and Security; the Commissioner of Correction; the Chair of the Parole Board; the Commissioner of Probation; the Commissioner of Public Health; the Commissioner of Mental Health; the Medicaid Director; the Juvenile, Superior and District Courts; and the Legislature, as well as representatives of other agencies and a consumer representative. Work to increase access to treatment might be conducted by a subgroup of this larger board to facilitate more responsive action.

A second approach would be to build off of the Governor's Opioid Working Group and transition this group from its role in assessing the extent of the problem and recommending changes to implementation and oversight. The Working Group could reconstitute its membership to ensure that representatives from public health, mental health and the various criminal justice agencies are included.

With either approach, the group would involve coordinated governance across the Executive, Judicial and Legislative branches of government. The group would work toward systemic change with a shared mission, coordinated response, and routine data analysis for rapid cycle improvements using a plan, do, study, act model. The group would also report directly to the Governor and Legislature, with input from the Judiciary, for accountability, transparency and fiscal support. With this coordinated effort, we can change practices within and across agencies to maximize public tax dollars and improve treatment services for people with substance use problems. Increased access to treatment, when readily available in the community and at all levels of contact with the criminal justice system consistently reduces arrests, days in jail and prison, and recidivism.

Massachusetts Stands Ready for Reform

Policy makers across the Executive, Legislative and Judicial branches of government recognize the need for and endorse significant change. We have a convergence of a significant public health problem, with proven solutions and the political will to implement change. And we have the leadership to drive the kind of systemic change that is needed. The Commonwealth could invest savings from early initiatives to fund more comprehensive changes until we build sufficient capacity across our primary care and substance use disorder treatment systems, including a continuum of treatment services within jails and prisons with a link to the community upon re-entry, to reduce substance misuse and dependence, as well as engagement in the criminal justice system. This, in turn, would lead to healthier, safer and more productive communities with our Commonwealth.

I. Understanding of the Problem

Massachusetts' opioid epidemic has grabbed the attention of policy makers at every level of government, including the Governor, Lieutenant Governor, Attorney General, Secretary of Health and Human Services, the Legislature, the Judiciary, Secretary of Public Safety and Security, Sheriffs and local law enforcement. Notably, the Massachusetts Department of Public Health (2015) estimates 1,256 unintentional opioid deaths in 2014 – a rate of 18.6 deaths out of every 100,000 individuals who live in Massachusetts. This is a 251% increase from 2000 when the rate was 5.3 out of every 100,000 residents in Massachusetts, and a 6% increase over last year alone (MDPH, 2015). The death rate from opiates has reached levels never witnessed in Massachusetts, extending to 263, or 75%, of municipalities (MDPH, 2015). The problem is widespread.

Concurrent with the crisis is a bottleneck in access to treatment (CHIA, 2015). Massachusetts has a comprehensive continuum of addiction treatment services but lacks sufficient capacity for inpatient and residential services, including acute treatment services (ATS), continuing support services (CSS), transitional support services (TSS) and long-term residential services (CHIA, 2015). Reports of insufficient capacity come from consumers who repeatedly experience long wait times and providers who report operating routinely at 90% to 100% of capacity (CHIA, 2015). Providers typically recommend that consumers move from acute treatment to continuing support, yet these follow up services are only available to 17% of the consumers flowing out of acute treatment beds (CHIA, 2015). A similar logjam occurs as consumers try to move from acute or transitional support services to residential rehabilitation beds (CHIA, 2015). Given expansions in healthcare coverage due to Massachusetts healthcare reform and the Affordable Care Act, Massachusetts has an opportunity to improve access to treatment for vulnerable populations. Appropriate treatment can also reduce crime and engagement with the criminal justice system. Better healthcare can lead to healthier, more stable lives and decrease crime and recidivism, which in turn improves the health and functioning of families and communities (Gates et al., 2014; Clear, 2007).

The link between access to substance use disorder treatment and reduced engagement with the criminal justice system is clear. Conversely the lack of treatment leads to greater engagement with the criminal justice system, with racial and ethnic minorities and women at greatest risk due to disparities in treatment access and incarceration (Cook and Alegría, 2011; Honig, 2015). First, denied or delayed treatment leads to continued drug use and greater engagement in criminal activity either to support that drug use or while under the influence of drugs (Collins and Lapsley, 2008). Chronic drug users engage in crime 30% more than non-drug users (French et al., 2000). Second, as drug users come into contact with the criminal justice system, the laws, policies and practices that have been in place for more than twenty years result in high levels of incarceration (Drug Policy Alliance, 2015). The U.S. incarcerates 716 people for every 100,000 residents, the highest incarceration rate in the world, and although Massachusetts' incarceration rate is lower than most other states (323 per 100,000 residents), it is still more than twice as high as half of the countries/territories around the globe (Walmsley, 2013; MA DOC, 2015).