

DRUG LAW ENFORCEMENT AS A STRUCTURAL DETERMINANT OF HEALTH FOR PEOPLE OF COLOR

**The Role of Drug Control Policies on
Individual and Community Health for People of Color**

National Academies of Sciences, Engineering, and Medicine

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Overview

1. A note about language
2. Law and its enforcement: structural determinants of health
 - Enforcement disparities → health disparities
3. Case Study 1: syringe access and policing
4. Case Study 2: drug-induced homicide prosecutions
5. Note of caution regarding “public health” reforms
6. Policy and program implications

A Note about Language

1. Language begets narratives, which beget policies and practices
 - “Abuse” and “abuser” charged w/ stigma (e.g. Ashford et al, 2018)
 - “Dependence” ≠ “addiction”
 - Treatment ≠ “substituting one drug with another,” “recovery”
 - Marijuana vs. cannabis
 - “Legalization,” “harm reduction,”
 - More about language: ONDCP, AP Style Guide, etc.
2. Linguistic norms define the goals and the means
3. Changing policy and practice requires changes in narratives, language, and imagery

Racial Disparities Across Health Domains

■ Fatal Overdose

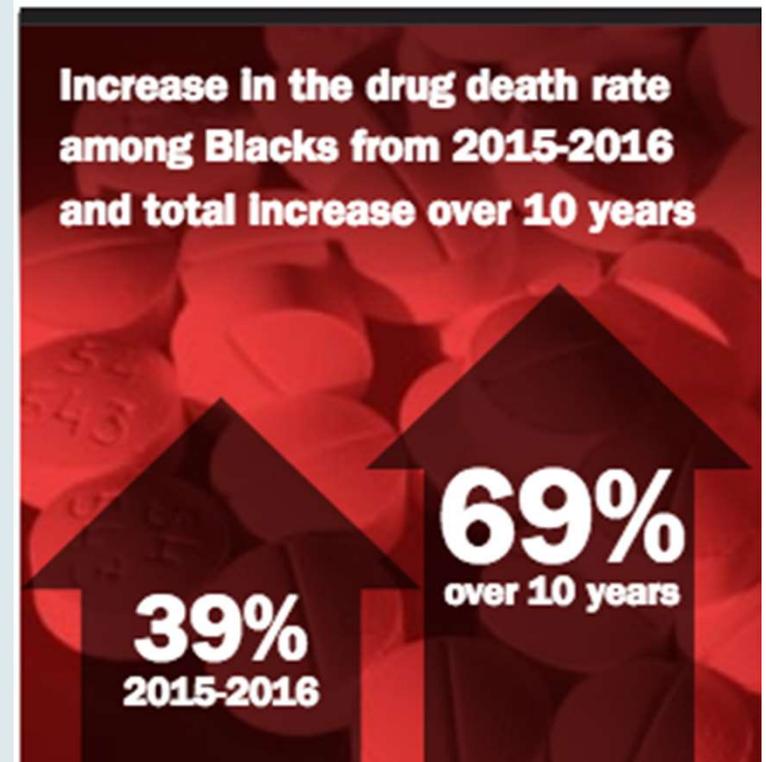
- Risk highest nationally for Native Americans
- Disproportionate impact among African Americans in recent years, some jurisdictions
- Vulnerability compounded by fatal re-entry

■ Infectious Disease

- Young African Americans at highest risk of HIV infection, especially injection-attributable
- Hepatitis and other infectious disease

■ Other Health Conditions

- Non-communicable: e.g. diabetes, cancer, mental health
- Communicable: e.g. sexually-transmitted infections



Source: US CDC (2017)

Laws as Structural Determinants of Health

- Structural determinants of health: many social, economic, built environment factors
- Laws shape many of these structural factors
- Laws can improve health and reduce risk, including for people who use drugs
- But role of *law enforcement* is poorly understood

Policy Implementation Process

- 1) Law on the Books: law as written
- 2) Law on the Streets: law as applied
 - Formal enforcement discretion
 - Implicit and explicit bias
 - Management and extrinsic incentives

Biased Policing is Alive and Well

MUST READS

L.A. NOW

LOCAL

L.A. County deputies stopped thousands of innocent Latinos on the 5 Freeway in hopes of their next drug bust



By JOEL RUBIN and BEN POSTON OCT 04, 2018 | 6:50 PM



An L.A. County Sheriff's Department team cruises the 5 Freeway looking for drug traffickers.

Nearly 70% of drivers stopped are Latino, a Times investigation found.



Surest Way to Face Marijuana Charges in New York: Be Black or Hispanic

The police explanation that more black and Hispanic people are arrested on marijuana charges because complaints are high in their neighborhoods doesn't hold up to scrutiny.

There are many ways to get arrested on marijuana charges, but one pattern has remained true through years of piecemeal policy changes in New York City: The primary targets are black and Hispanic people. Mark Abramson for The New York Times

By Benjamin Mueller, Robert Gebeloff and Sahil Chinoy

May 13, 2018



They sit in courtroom pews, almost all of them young black men, waiting their turn before a New York City judge to face a charge that no longer exists in some states: possessing marijuana. They tell of smoking in a housing project hallway, or of being in a car with a friend who was smoking, or of lighting up a Black & Mild cigar the police mistake for a blunt.

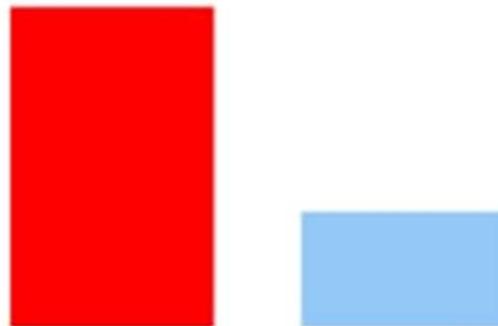
There are many ways to be arrested on marijuana charges, but one pattern has remained true through years of piecemeal policy changes in New York: The primary targets are black and Hispanic people.

Across the city, black people were arrested on low-level marijuana charges at eight times the rate of white, non-Hispanic people over the past three years, The New York Times found. **Hispanic people were arrested at five times the rate of white people. In Manhattan, the gap is even starker: Black people there were arrested at 15 times the rate of white people.**

Health Effects of Police Encounters

Black people are most likely to be killed by police

3X more likely to be killed by police than white people.



Police Killings per 1M

■ Black ■ White

30% of black victims were **unarmed** in 2015 compared to 19% of white victims.



■ Unarmed (30%) ■ Unknown/Armed (70%)

Source: MappingPoliceViolence.org (2017)

Case 1: Syringe Access and Policing

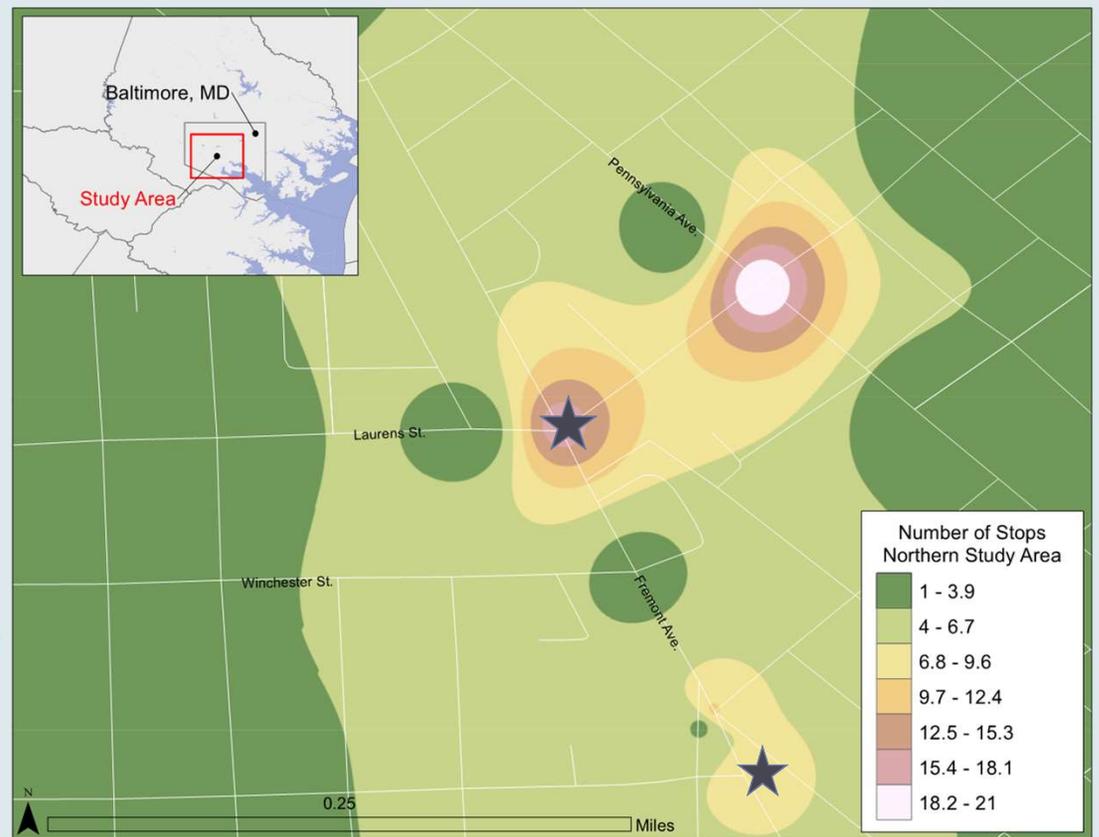


Photo by A. Cabrera

- Harm reduction programs reduce HIV, Hepatitis transmission, address overdose risk, and provide link to treatment
- Encounters with police (arrest, syringe or condom confiscation) associated with risk behavior and increased levels of infectious disease
- Police interference with public health programs reduces their impact, fueling epidemics
- Police can, do facilitate harm reduction, e.g. by providing security and referring clients to services

Baltimore's Syringe Exchange Clients

- Syringe exchange programs (SEPs) in MD authorized by state and local law, run by City health department
- Study: 308 clients
- Encounters cluster around exchange sites
- Among those reporting arrest or citation for syringe possession, clients of color more likely than whites to report being en route to or from SEP ($P < .001$)



Case Study 2: Drug-induced Homicide Prosecutions

- Case of Marcus Burrage: 2010
- Sale of heroin, Joshua Banka's death involves multiple substances
- Government rationale:
 1. Retribution
 2. Deterrence/prevention
 3. Incapacitation
 4. Overdose prevention
- Ultimate result: cleared of homicide charge but 20-year sentence for drug distribution



Photo: www.desmoinesregister.com



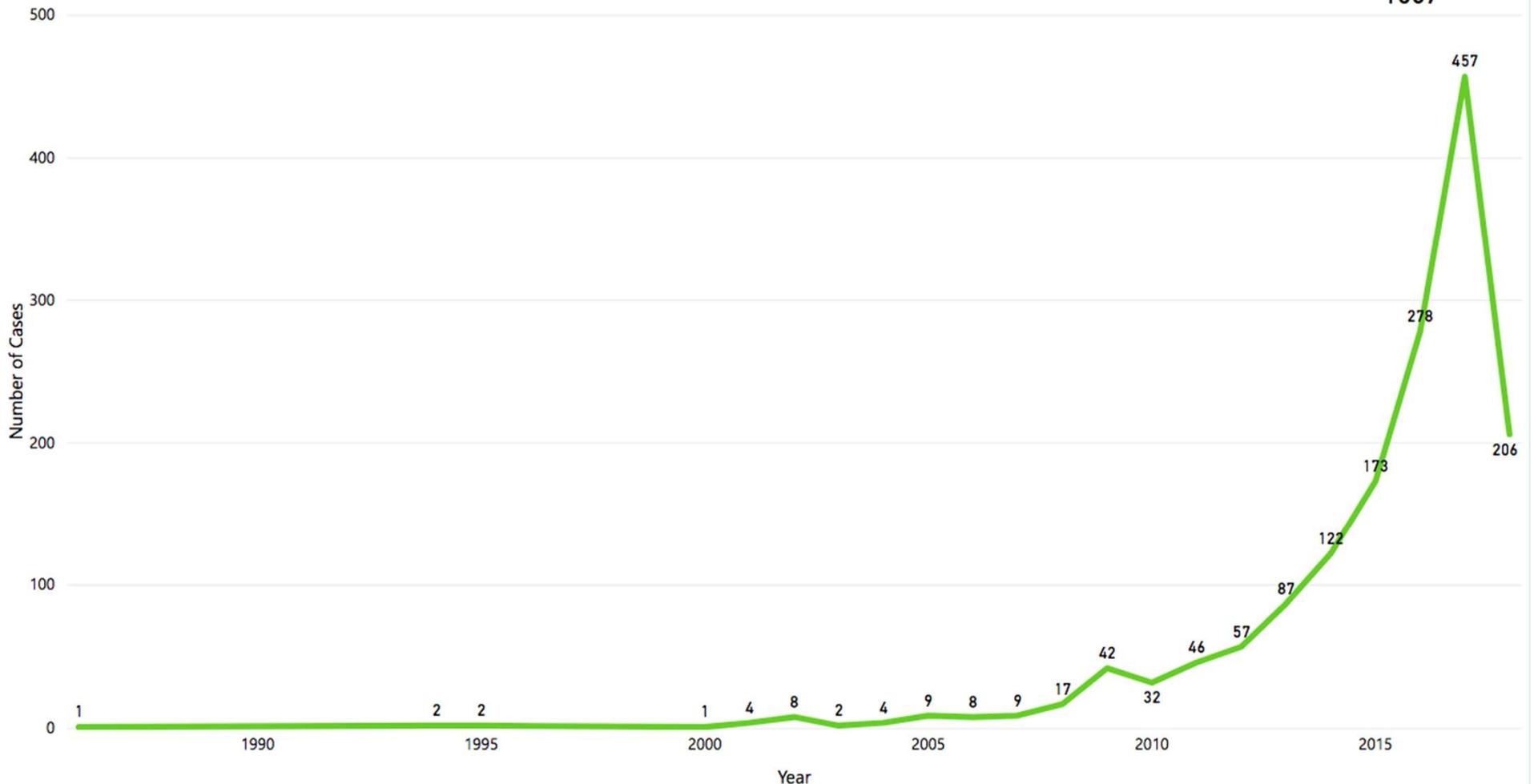
Photo: www.legacy.com

Surge of DIH Charges Overtime

DRUG-INDUCED HOMICIDE CHARGES

Number of Cases Displayed

1567



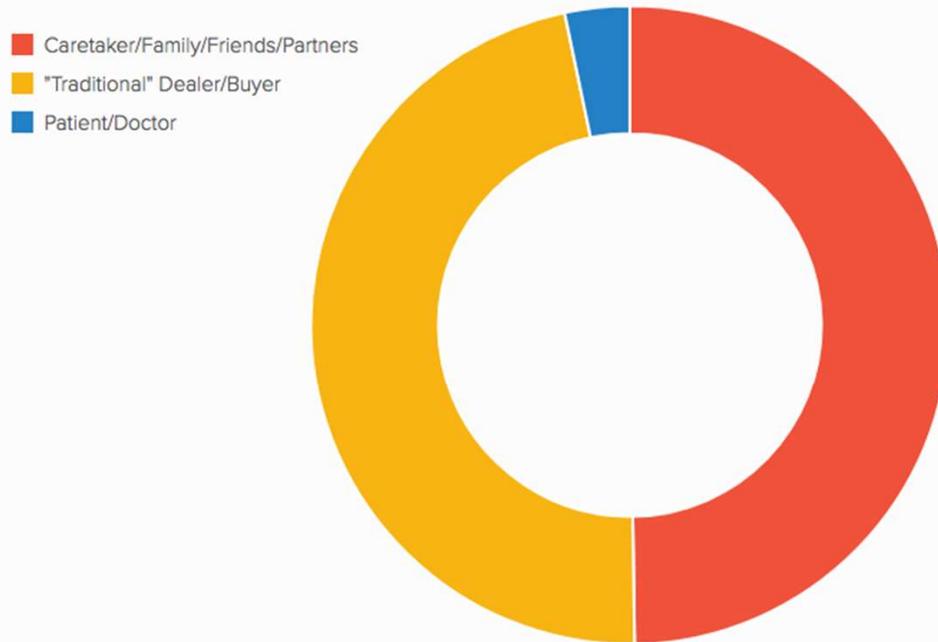
*Data Based on Automated Analysis of Online News Sources

Source: <http://healthinjustice.org/drug-induced-homicide>

Date Updated: 09/21/2018

The Myth of the "Dealer"

RELATIONSHIP BETWEEN ACCUSED AND VICTIM



RELATIONSHIP BETWEEN ACCUSED AND VICTIM

Majority of cases represent charges being filed against individuals who cannot be defined as "drug dealers," but are instead family members, partners, or other actors.

Source: Online News Articles (2000-2017)

Source: <http://healthinjustice.org/drug-induced-homicide>

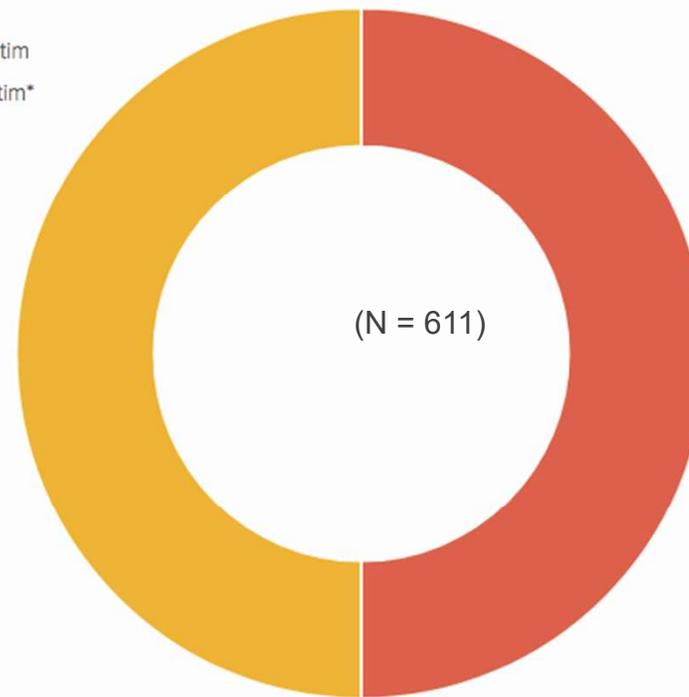
Enforcement Discretion Tells a Racist Tale

RACE OF ACCUSED (DEALER) AND VICTIM (BUYER)

Near majority of cases involving alleged dealers represent a person of color "dealer"- white "victim" dyad, confirming that this trend is squarely rooted in the racist implementation of drug laws

- White Accused & White Victim
- P.O.C Accused & White Victim*

RACE OF ACCUSED (DEALER) & VICTIM (BUYER)



P.O.C Defined as Person of Color. Source: Online News Articles 2000-2017

Mapping onto Drug War Disparities

MEDIAN SENTENCING BY ACCUSED RACE



*Data Based on Automated Analysis of Online News Sources

Date Updated: 09/21/2018

Source: <http://healthinjustice.org/drug-induced-homicide>

Public Health Impact: Helpseeking

International Journal of Drug Policy 50 (2017) 82–89

Contents lists available at ScienceDirect

 **ELSEVIER**

International Journal of Drug Policy

journal homepage: www.elsevier.com/locate/drugpo



Research paper

“Caught with a body” yet protected by law? Calling 911 for opioid overdose in the context of the Good Samaritan Law 

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Research paper

Why are some people who have received overdose education and naloxone reticent to call Emergency Medical Services in the event of overdose? 

Stephen Koester^{a,b,*}, Shane R. Mueller^{b,c,d}, Lisa Raville^c, Sig Langegger^d, Ingrid A. Binswanger^{c,d}

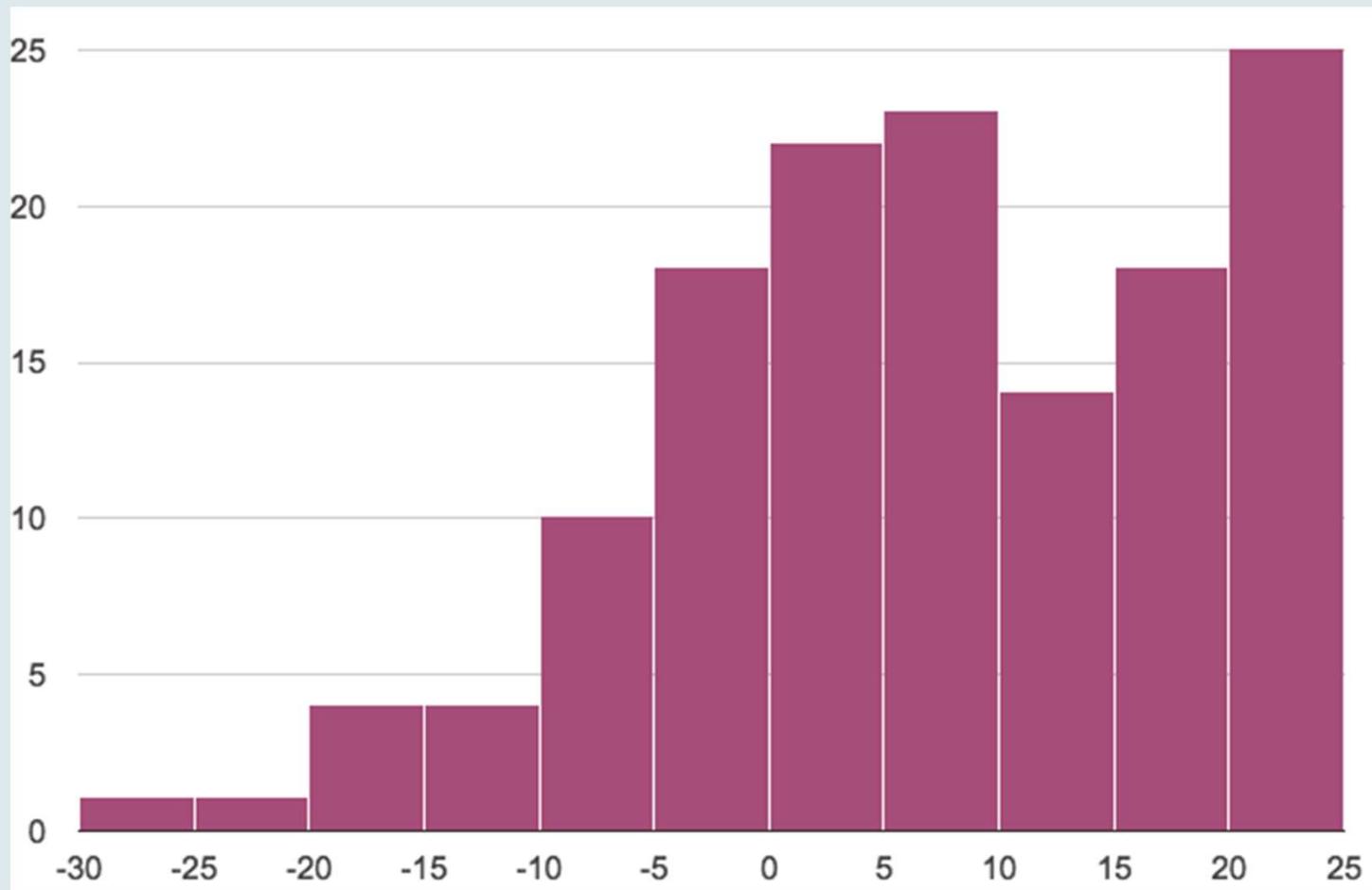
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“If you[’re] the one that’s with them when they go out, you’re possibly going to be **CHARGED WITH THEIR DEATH.** So that’s the main reason why a lot of people don’t call [911].”

Source: Latimore and Bergstein, *IJDP* (2017)

Caution: "Public Health Approach"

Analysis of Racial Make-up of PAARI Jurisdictions vs. State Average



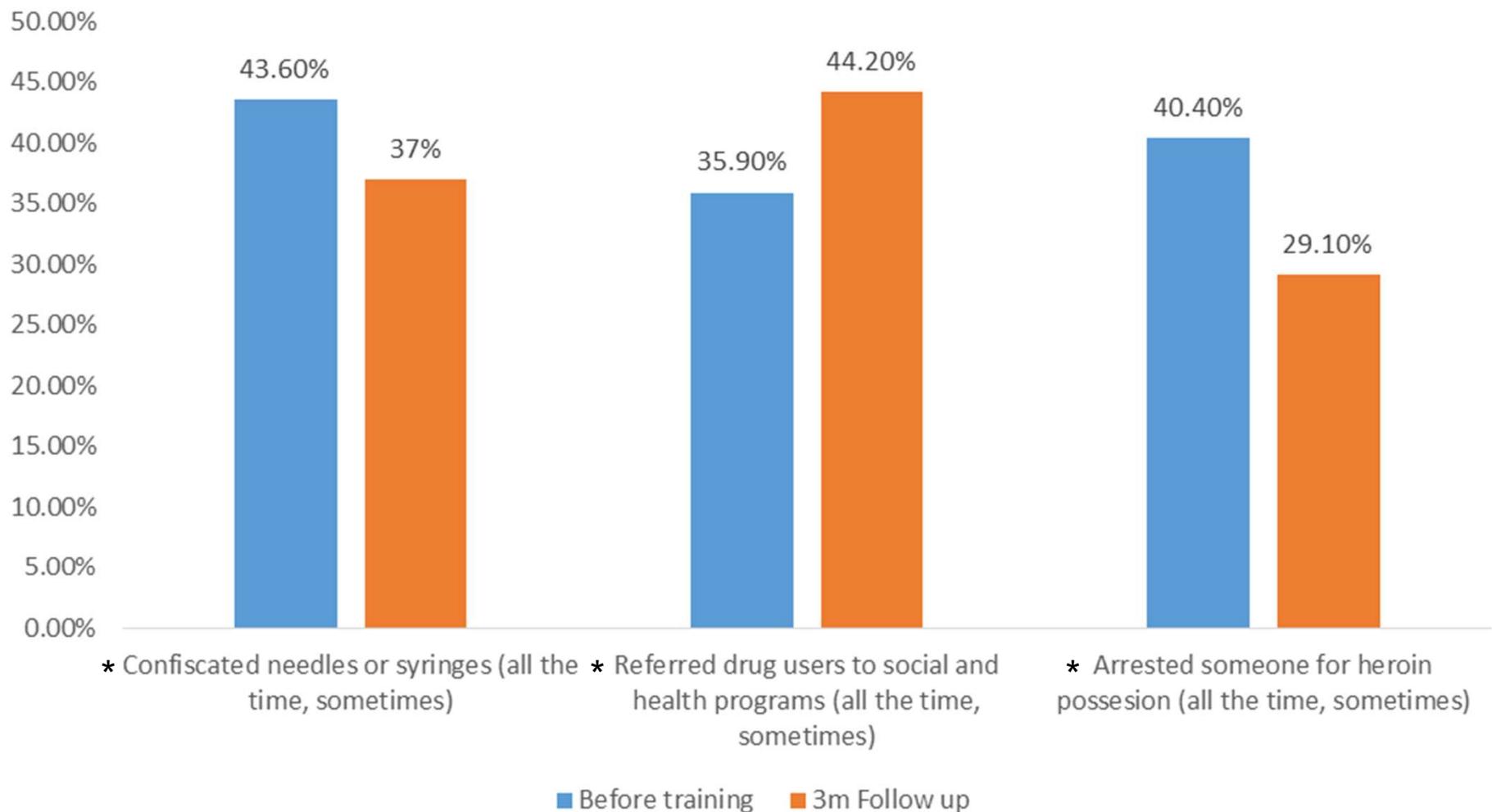
Implication: Ancillary Structural Interventions Needed

- SHIELD (Safety and Health Integration in the Enforcement of Laws on Drugs)
- 3-hour course:
 1. Basic epidemiology, prevention and treatment of HIV, HCV, and tuberculosis.
 2. Relevant national and state drug policies
 3. General elements of harm reduction; drug use and public health perspective
- NIH-NIDA funding



Source: J. Arredondo (2015)

Police Behavior Change, 3mo Follow-up



* All results significant at p<0.01

Implications for Policy and Practice

- Law reform is needed, but insufficient
- Changes in institutional policies/guidelines
- Police training and diversification
- Changing incentives for police
- Surveillance and Monitoring
- Intersectionality between police reform, racial justice, and public health
- Political empowerment and emancipation: civil rights frame

(Deane et al, 1999; Keram 2005; Beletsky et al, 2005; Wood et al, 2011; Beletsky et al, in press; Beletsky et al, 2011; Silverman et al, 2012)

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References

1. CDC: Diagnoses of Infection and AIDS in the United States and Dependent Areas. Table 19. <http://www.cdc.gov/hiv/surveillance/resources/reports/2010report/index.htm#>
2. Maryland Department of Health and Mental Hygiene: http://ideha.dhmh.md.gov/OIDEOR/CHSE/Shared%20Documents/Baltimore_MSA_Epidemiology.pd.
3. Baltimore City Department of Health. Needle Exchange Program <http://baltimorehealth.org/needle-exchange-info.html>
4. Blankenship K, Koester S. Criminal law, policing policy, and HIV risk in female street sex workers and injection drug users. *J Law Med Ethics* 2002;30:548 - 59.
5. Kerr T, Small W, Wood E. The public health and social impacts of drug market enforcement: A review of the evidence. *Int J Drug Policy*. 2005;16:210-220
6. Davis C, Burris S, Metzger D, Becher J, Lynch K. Effects of an Intensive Street-Level Police Intervention on Syringe Exchange Program Utilization: Philadelphia, Pennsylvania. *Am J Public Health* 2005;95(2)233-36.
7. Beletsky L, Lozada R, Gaines T, et al. Syringe Confiscation as an HIV Risk Factor: the Public Health Implications of Arbitrary Policing in Tijuana and Ciudad Juarez, Mexico, *J. Urb. Health* (forthcoming)
8. Beletsky L, Grau LE, White E, Bowman S, Heimer R. (2011). The Roles of Law, Client Race, and Program Visibility in Shaping Police Interference with the Operation of US Syringe Exchange Programs *Addiction* 106(2):357-65.
9. Burris S, Blankenship KM, Donoghoe M, Sherman S, Vernick JS, Case P, Lazzarini Z, Koester S. Addressing the "risk environment" for injection drug users: the mysterious case of the missing cop. *Millbank Q* 2004;82(1):125-56.
10. Beletsky L Macalino GE, and Burris S. (2005). Attitudes of Police Officers towards Syringe Access, Occupational Needle-Sticks, and Drug Use: A Qualitative Study of One City Police Department in the United States. *International Journal of Drug Policy*, 16(4), 267-274
11. Beletsky L, Grau LE, White E, Bowman S, Heimer R. Prevalence, characteristics, and predictors of police training initiatives by US SEPs: Building an evidence base for structural interventions. *Drug & Alcohol Dependence*, 2011; 19(1-2):145-9
12. Siverman B, Davis C, Graff J, Bhatti J, Santos M, and Beletsky, L. Harmonizing disease prevention and police practice in the implementation of HIV prevention programs: Up-stream strategies from Wilmington, Delaware. *Harm Red. J.* (forthcoming).
13. Davis C, Beletsky L. Bundling Occupational Safety with Harm Reduction Information as a Feasible Method for Improving Police Receptiveness to Syringe Access Programs: Evidence from Three U.S. Cities. *Harm Red. J.* 2009; 6(16):1-8.
14. Beletsky L, Agrawal, A, Moreau B, Kumar P, Weiss-Laxer N, Heimer R. Police Training to Align Law Enforcement and HIV Prevention: Preliminary Evidence from the Field. *Am. J. Pub. Health* 2011; 101(11):2012-15.
15. Beletsky, et al. Policy Reform to Shift the Health and Human Rights Environment for Vulnerable Groups: The Case of Kyrgyzstan's Instruction 417. *Health and Hum. Rights* (in Press)

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