



**THE ROLE OF LAW ENFORCEMENT,
ARREST AND PROSECUTION**

**SCOTT NOLEN, J.D., PH.D.
OPEN SOCIETY INSTITUTE-BALTIMORE**

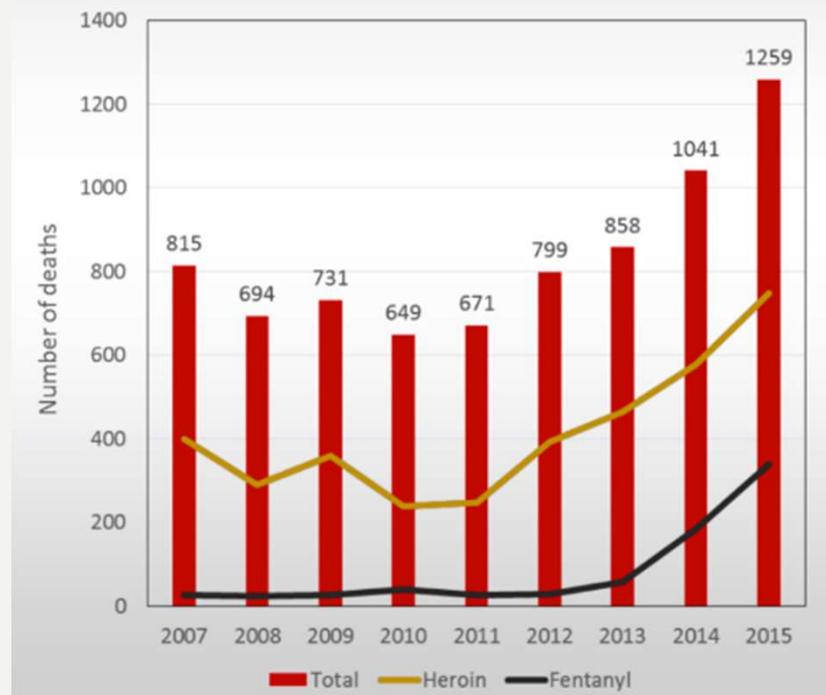
OPEN SOCIETY INSTITUTE BALTIMORE

Open Society Institute-Baltimore focuses on the root causes of three intertwined problems in our city and state:

- drug addiction
- an over-reliance on incarceration
- obstacles that impede youth in succeeding inside and out of the classroom.

We also support a growing corps of social entrepreneurs committed to underserved populations in Baltimore.

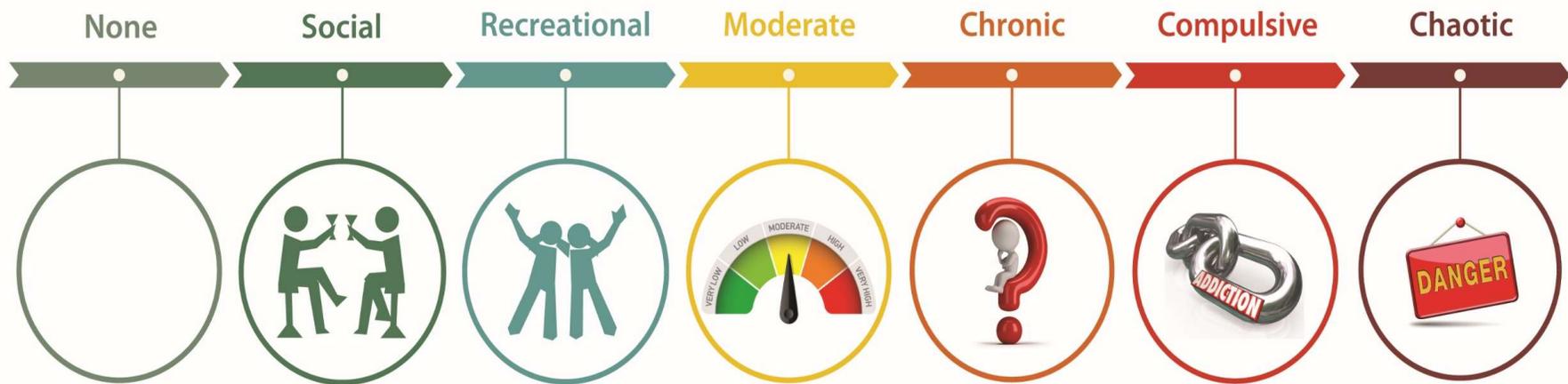
OVERDOSE DEATHS: MARYLAND



Source: Drug- and Alcohol-Related Intoxication Deaths in Maryland, 2015. Department of Health and Mental Hygiene. http://bha.dhmh.maryland.gov/OVERDOSE_PREVENTION/Documents/2015%20Annual%20Report_final.pdf

Harm Reduction Continuum

— Substance use and behaviors occur along a continuum from no use to chaotic use



Adapted from Patt Denning's book "Practicing Harm Reduction Psychotherapy"

LivingMoreFully
.com

IF YOU JUST STOPPED USING DRUGS....

- There is a prevailing belief that “if people just stabilize their drug use that their lives will stabilize.”
- This belief is a significant factor that supports the “tough love” theories of intervention.
- However, for many people stabilizing their lives (e.g., housing, family relations, other medical conditions, criminal justice issues) is the first step to stabilizing their substance use.

STATE OF INCARCERATION

The number of U.S. residents in prison has increased from 330,000 people in jails and prisons in 1972 to almost 2.2 million imprisoned people today.

The United States now has the highest rate of incarceration in the world.

STATE OF INCARCERATION

- One out of 100 adults is in jail or prison and one out of 31 adults is in jail, prison on probation or parole.
- Many states spend in excess of \$50,000 a year to incarcerate each prisoner in a state prison or facility, including non-violent, low-level drug offenders.
- Corrections spending by state and federal governments has risen from \$6.9 billion in 1980 to \$81 billion in 2012.
- During the ten year period between 1985 and 1995, prisons were constructed at a pace of one new prison opening each week.

CONVERSATIONS ABOUT THE SOLUTIONS TO THE OPIOID CRISIS HAVE TO BE ROOTED IN RECOGNITION OF HISTORICAL MISSTEPS

- Communities of color are angered and disillusioned by the newfound desire to address the loss of life related to the opioid crisis now that suburban White families are identified as directly impacted
- POC have always been affected by overdose and continue to be seriously affected now. Rates of overdose death are going up among Whites, but in many places, the absolute numbers have been and are still higher overall among POC.
- In the swing towards public health approaches, there are still many instances of criminal sanctions remaining or even increasing in ways that would continue to negatively impact POC disproportionately.

TWO MOST CONCERNING “POLICY POSITIONS”

- The policy maker for whom criminal justice responses are the answer no matter what the question
 - Poor education system and high school drop out rate
 - Lack of good paying jobs and high concentration of poverty
 - Mental health system that is inadequate
- The policy maker who is overwhelmed by the size of the opioid crisis and how “quickly” it came upon us

130 TOP POLICE CHIEFS AND PROSECUTORS URGE END TO MASS INCARCERATION



Law Enforcement Leaders to Reduce Crime and Incarceration

THE CRIMINAL JUSTICE SYSTEM IS NOT SET UP TO ADDRESS PUBLIC HEALTH ISSUES

- **Drug Court**

- This is an example of our efforts to address a public health crisis in a criminal justice setting
 - Time intensive, strict oversight
 - Judge who may or may not have adequate training on addiction overseeing someone's treatment regimen
 - Drug Court participant can be sanctioned, kicked out of the program or remanded to their original sentence for using drugs which is a symptom of the disease of addiction

WE NEED A COMMITMENT TO PUBLIC HEALTH APPROACHES

- In the swing towards public health approaches, there are still many instances of criminal sanctions remaining or even increasing in ways that would continue to negatively impact POC disproportionately.
- Even when advocates fight and win and a policy battle like the efforts to get *Good Samaritan* Laws, the criminal justice system finds ways to seep into that space.
 - In Baltimore, we have seen officials move forward with the practice of treating overdose scenes like homicides and sending detectives to investigate.
 - Even more, I have talked with law enforcement officials who have so little regard for people who use drugs that they don't believe that these individuals can understand what is happening.

PUNITIVE MINDED SOLUTIONS THAT WILL EXACERBATE THE CRISIS

- Mandatory minimum sentencing
- Limits on the number of 911 calls to a particular location
- Criminal sanction enhancements for fentanyl related deaths
- Taking away books or mail in correctional facilities to reduce the opportunity for smuggling medications into prison
 - Medicaid implications
- “Detoxing” individuals who are on medication assisted treatment when they are incarcerated

THE DISCONNECTION WE CREATE FOR THOSE WITH ADDICTION

- We push people out of social circles when they use drugs and shut them off from many types of opportunities:
 - Housing
 - Employment
 - Food stamps and other benefits
 - Job training
 - We even kick people out of treatment for using drugs

WHAT WE NEED TO DO

➤ Solutions:

- We need to push for simple ways of reducing risk like Naloxone, Suboxone and syringe exchange
- We need to fight some of the negative impulses (which are sometimes wrapped in things that seem good) because they will just lead to greater criminalization of POC.
- We need to think about providing safe places for people who use drugs to exist—whether they are using drugs or not.
- Between NIMBY and police interactions, many individuals who use drugs get pushed further and further away from connections with their family, friends and community