



Civil (Involuntary) Commitment for Substance Use Disorders

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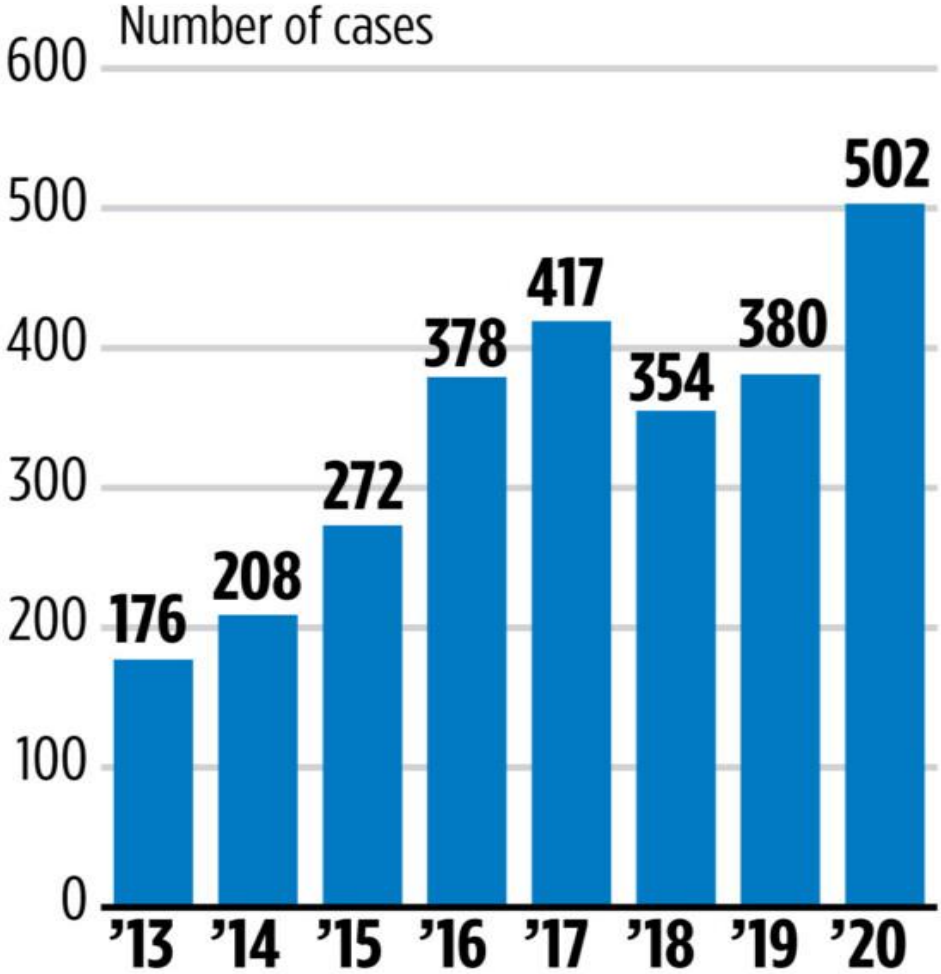
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Overdose Deaths in Maine

9th Highest Rate in the Country of Overdose Deaths according to CDC statistics

2021: 621!

Maine drug overdose deaths



SOURCE: University of Maine and Office of the Chief Medical Examiner

STAFF GRAPHIC | MICHAEL FISHER

Substance Use Disorders: Economic Costs

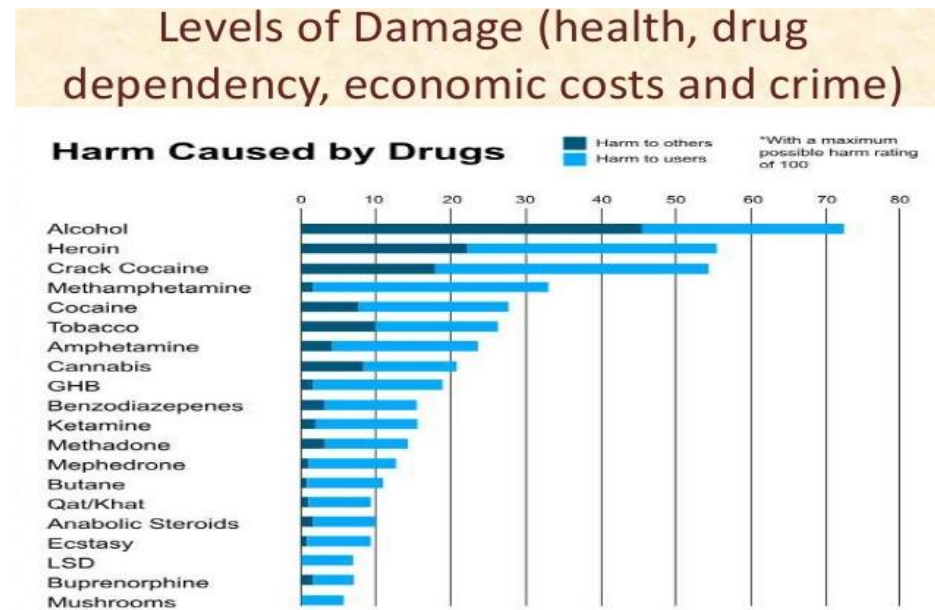
- In 2010, Alcohol misuse cost the United States \$249 Billion
- The cost of the opioid epidemic may be over \$500 Billion

Table 1: Estimated Cost of Opioid-involved Overdose Deaths in 2015 (2015 \$)

VSL Assumption	Estimated Cost of Fatalities
Age-dependent	\$431.7 billion
Low	\$221.6 billion
Middle	\$393.9 billion
High	\$549.8 billion

Note: We assign the VSL of 18 to 24 year-olds for fatalities in the 0 to 17 year-old group, and we assign the VSL of 55 to 62 year-olds for fatalities in the over-62 year-old group. Two fatalities had no reported age; they were assigned the average VSL over all other fatalities. We also adjust Aldy and Viscusi's figures for the effects of inflation and real income growth, following the procedure described in the U.S. DOT (2016), p. 8.

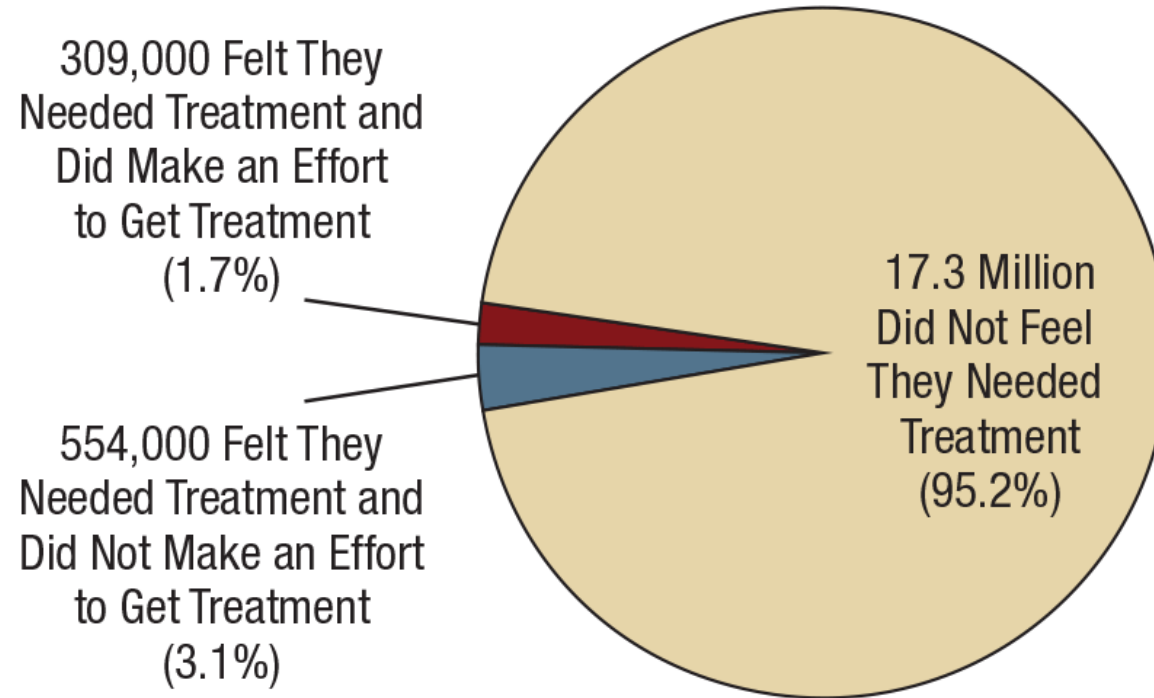
Source: Aldy and Viscusi (2008); U.S. Department of Transportation (2016); CDC WONDER database, multiple cause of death files; Ruhm (2017); CEA calculations.



Sacks, J.J.; Gonzales, K.R.; Bouchery, E.E.; et al. 2010 national and state costs of excessive alcohol consumption. *American Journal of Preventive Medicine* 49(5):e73–e79, 2015.

Aldy and Viscusi (2008); U.S. Department of Transportation (2016); CDCWONDER database, multiple cause of death files; Ruhm (2017); CEA calculations.

Most Persons with Substance Use Disorders Do Not Seek Treatment



18.1 Million Adults Needed but Did Not Receive Substance Use Treatment

Substance Misuse in America

1. Tens of thousands of people are dying in the United States each year due to substance abuse
2. Substance abuse is costing American society billions of dollars a year
3. There are evidence-based medication and psychosocial treatments available
4. A very small percentage of people with substance use disorders think they need treatment. An even smaller percentage of people actually seek out treatment.

Involuntary Commitment Laws

Review of Commitment Law Development

- *Parens Patriae* = “Parent of the Country”
 - The idea that the government can intervene on behalf of individuals who cannot act in their own self interest
 - Based in English Common Law
 - Beneficence supersedes autonomy



Maine Civil Commitment Statute

- Three Pronged
- “Blue Paper”
 - Substantial risk of physical harm to the person shown by
 - recent threats of suicide or serious bodily harm to self or
 - recent attempts at suicide or serious bodily harm to self
 - Substantial risk of physical harm to others as shown by
 - recent homicidal or other violent behavior or
 - recent conduct placing others in reasonable fear of serious physical harm
 - Inability to care for self
 - reasonable certainty that severe physical or mental impairment or injury will result to the person as shown by recent behavior demonstrating person’s inability to avoid risk or to protect himself or herself adequately from impairment or injury



34-B M.R.S.A. §3801(4-A)(C)

Review of Civil Commitment Laws

1. The “state” has an established right to hospitalize persons who have mental illness for their own benefit and that of society
2. The standard for such confinement is generally dangerousness to self or others
3. It has to be the “Least Restrictive” alternative
4. Treatment should be offered to those confined
5. “Due Process” and procedural safeguards exist to prevent abuse
6. The burden of proof for keeping someone confined is “Clear and Convincing” evidence
7. Based on the idea that mental illness is “treatable”

Involuntary Treatment for Substance Use Disorders

Addiction Recovery

Heal The Root - Heal The Tree



Pain &
Suffering

Abuse

Divorce

Mental or Emotional
Disorders

Genetics

Bad Choices &
Bad Influences

Stress

Death &
Dying

Family History

Career
Job Loss

Civil Commitment for Substance Use: The Argument in Favor

- Society has accepted involuntary confinement for a class of persons who might be dangerous to themselves or others
- This is based on the accepted theory that mental illness is treatable
- Untreated substance use disorders are causing at least as much, if not more, harm to individuals and society than mental illness
- Emerging scientific consensus accepts the “disease” model of addiction
- Evidence is that most persons with addictive disorders do not think they need treatment
- Persons with substance use disorders are disproportionately incarcerated and/or homeless
- Could serve as a viable alternative to unnecessary incarceration
- **WHY CANT SOMEONE BE COMMITTED FOR THEIR SUBSTANCE USE DISORDER?????**

Opposition and Arguments Against Civil Commitment for Addictive Disorders

- Deprivation of liberty
- Capacity
- It's a choice
- Inadequate availability of treatment
- One issue that is of particular concern is that many institutions have refused to integrate empirically validated treatments into their protocols
 - Abstinence based programs
- Time for treatment (months to years)

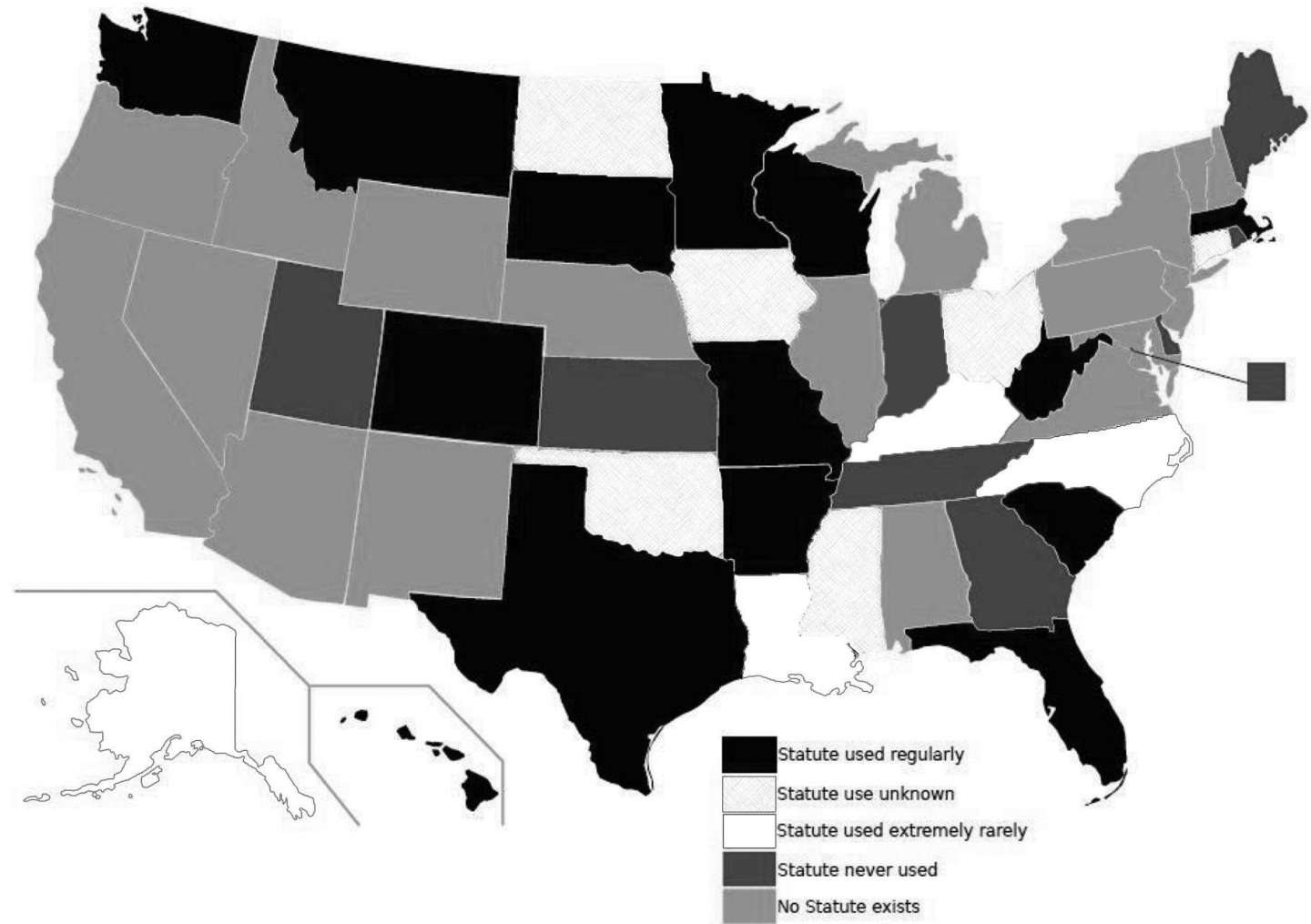
Opposition and Arguments Against Civil Commitment for Addictive Disorders

- Persons placed in inappropriate settings
- Slippery slope arguments
- Enforcement is not possible
- Scope of the problem is too big
- Can actually be dangerous!

Nature and Utilization of Civil Commitments for Substance Use

37 States and District of Columbia as of 2018

29 States Explicitly Authorize



Maine Civil Commitment Statute

34-B 3801



Mentally ill person. "Mentally ill person" means a person having a psychiatric or other disease that substantially impairs that person's mental health or creates a substantial risk of suicide. "Mentally ill person" includes persons suffering effects from the use of drugs, narcotics, hallucinogens or intoxicants, including alcohol. A person with developmental disabilities or a person diagnosed as a sociopath is not for those reasons alone a mentally ill person.

[2009, c. 651, §6 (AMD) .]

Nature and Utilization of Civil Commitments for Substance Use Disorders

1. Massachusetts: 6048 (2018)
2. Florida: approx. 3000 (2019)
3. South Carolina 1400 (2019)
4. Minnesota: 350 (2019)
5. Wisconsin: 260 (2011)
6. Colorado: 150-200 yearly

Missouri, Hawaii, and Texas all with less than 100 reported annual cases

No data from 13 states who regularly use substance abuse civil commitment statutes

Nature and Utilization of Civil Commitments for Substance Use Disorders

- Treatment settings vary
 - Hospitalization/confinement
 - Mandatory community treatment
- Length of Treatment varies
 - Days in some places
 - >1 year in certain circumstances
- Which substances?
 - Most provide for treatment of alcohol and illicit substances
 - Washington state senate Bill 5811-targeting heroin
 - “Three or more visible track marks” as evidence of “grave disability”

Case Studies: Florida and Massachusetts

Florida: The Marchman Act

"There is good faith reason to believe the person is substance abuse impaired and, because of such impairment:

- Has lost the power of self-control with respect to substance use; AND EITHER
- Has inflicted, or threatened or attempted to inflict, or unless admitted is likely to inflict, physical harm on himself or herself or another; OR
- Is in need of substance abuse services and, by reason of substance abuse impairment, his or her judgment has been so impaired that the person is incapable of appreciating his or her need for such services and of making a rational decision in regard thereto; however, mere refusal to receive such services does not constitute evidence of lack of judgment with respect to his or her need for such services. "



Florida: The Marchman Act



1. A sworn affidavit is signed at the local county courthouse or clerk's office.
2. A hearing is set before the court after a Petition for Involuntary Assessment and Stabilization is filed.
- 3. Following the hearing, the individual is held for up to five days for medical stabilization and assessment in a designated treatment and assessment center.**
4. A Petition for Treatment must be filed with the court and a second hearing is held for the court to review the assessment.
5. Based on the assessment and the recommendation that the individual needs extended help, the judge can then order a 60-day treatment period with a possible 90-day extension, if necessary.
6. If the individual exits treatment in violation of the judge's order, the individual must return to court and answer to the court as to why they did not comply with treatment. Then the individual is returned immediately for involuntary care.
7. If the individual refuses, they are held in civil contempt of court for not following treatment order and are ordered to either return to treatment or be incarcerated.

Florida: The Marchman Act

■ Support

- Has survived since 1993
- Many family testimonials
- Perception from law enforcement and advocates that it gives an option to incarceration
- Some believe ER volumes have gone down
- Treatment and assessment centers have grown

■ Criticisms

- Not accessible in many rural areas
- Many counties do not have the money to support it
- Many for-profit treatment centers and lawyers have started advertising
- Lack of data to support
- Planning and implementation has been haphazard





Massachusetts: Section 35

According to MGL chapter 123 Section 35, only a qualified petitioner may request the court to commit someone to treatment under Section 35. They are: a spouse, blood relative, guardian, a police officer, physician, or court official. They must go to the local court and file a written petition or affidavit for an order of commitment

- The court reviews the facts and decides whether or not to issue either a summons or a warrant of apprehension
 - **Right to a forensic evaluation**
- The court will hear the testimony and evidence from the exam and other evidence that relates to the case and then make a decision to grant or deny the petition for commitment. Based on the following criteria:
 - The individual has an alcohol or substance use disorder; AND
 - There is a likelihood of serious harm to self or others as a result of their substance use disorder.
- Commitment is for “up to” 90 days

“Getting Sectioned”



Massachusetts: Section 35

If the judge grants the petition and orders the commitment, the individual will be returned to a holding cell to await transportation by the local Sheriff's Department to the commitment facility. Transportation typically does not occur until after the courts close so the individual may wait several hours depending on what time their hearing was held.

The forensic evaluator, after conferring with Central Intake, will make a recommendation to the judge as to which facility will provide the most appropriate level of services. The following programs are approved to treat civil commitments.

Oversight	Facility Name	Location	Population	Capacity
DPH	High Point Women's Addiction Treatment Center (WATC)	New Bedford, MA	Female	102 beds (30 ATS and 72 CSS) ⁴
	High Point Treatment Center at Shattuck Hospital (HPTC)	Jamaica Plain, MA	Female	32 beds (16 ATS and 16 CSS)
	High Point Men's Addiction Treatment Center (MATC)	Brockton, MA	Male	108 beds (32 ATS and 76 CSS)
DMH	DMH Women's Recovery from Addiction Program (WRAP)	Taunton, MA	Female	45 beds (15 ATS and 30 CSS) ⁵
DOC ¹	Massachusetts Alcohol and Substance Abuse Center (MASAC)	Plymouth, MA	Male	251 beds (42 ATS and 209 CSS)
	MCI – Framingham First Step Program ³	Framingham, MA	Female	N/A; dual status must have bail (ATS and CSS)
HCSD ²	Stonybrook Stabilization and Treatment Center – Ludlow	Ludlow, MA	Male	85 beds (ATS and CSS)
	Stonybrook Stabilization and Treatment Center – Springfield	Springfield, MA	Male	32 beds (CSS)

Massachusetts: Section 35

Between 2010 and 2016, Massachusetts saw an 83 percent increase in the number of Section 35 commitments.

20% are “self-commitments”



MASAC

Massachusetts: Section 35

■ Support

- Allowances for MAT (including Vivitrol) at most facilities
- Opioid-related death rate is declining in Massachusetts as opposed to most New England states
- Alternative to incarceration for drug related crimes
- Entitled to at least 20 hours of therapy per week
- Section 35 commission established in August 2018

■ Criticism

- Prison-like settings (including some that are actual former prisons)
- Inadequate legal protections such as cursory hearings
- People who have been civilly committed may have a higher risk of death by overdose (2016 Section 55 report)
- Overuse of the court system

Does it work?

- “Outcome data has been limited, difficult to generalize, and complicated by variability in state laws “
 - Civil Commitment for Opioid and Other Substance Use Disorders: Does It Work? *Psychiatric services (Washington, D.C.)* 69(4):374-376 · April 2018
- Florida: “Successful Completion” was similar between 100 involuntary and 219 voluntary participants
 - Sweeney TJ, Strolla MP, Myers DP: Civil commitment for substance use disorder patients under the Florida Marchman Act: demographics and outcomes in the private clinical setting. *Journal of Addictive Diseases* 32:108–115, 2013
- Minnesota: 6 of 7 patients who were committed for substance use relapsed almost immediately after discharge
 - Lamoureux IC, Schutt PE, Rasmussen KG: Petitioning for involuntary commitment for chemical dependency by medical services. *Journal of the American Academy of Psychiatry and the Law* 45:332–338, 2017
- MASS: Positive treatment experience and post-commitment medication treatment were correlated with longer post-commitment abstinence in persons who experienced civil commitment for opioid use disorder
 - Commitment Treatment Period Average 21-30 days
 - Median Days to relapse: 14, Median Days to relapse 72
 - Civil Commitment Experience Among Opioid Users. Christopher, P. 2018

Mental Health Providers' Opinion

“Psychiatrists’ Opinions About Involuntary Civil Commitment: Results of a National Survey”

Survey sent to 1500 members of the APA, 739 responses

- 22% supported commitment for alcohol use disorders
- 22.3% supported commitment for substance use disorders
- 62.9% supported commitment for psychosis

Mental health professionals' attitudes towards legal compulsion: report of a National Survey (UK)

- 10% of psychiatric professionals favored use of involuntary commitment for substance abuse

Addiction Medicine Providers

- addiction medicine providers supported the application of civil commitment for SUD—60.7% reported being in favor of its use whereas only 21.5% reported being opposed

Psychiatrists' Opinions About Involuntary Civil Commitment: Results of a National Survey. Robert A. Brooks. Journal of the American Academy of Psychiatry and the Law Online June 2007, 35 (2) 219-228;

Roberts C, Peay J, Eastman N, et al: Mental health professionals' attitudes towards legal compulsion: report of a National Survey. Int J Forensic Ment Health 1:71–81, 2002

Jain A, Christopher PP, Fisher CE, Choi CJ, Appelbaum PS. Civil commitment for substance use disorders: a national survey of addiction medicine physicians. J Addict Med. 2021;15:285–291.

Future Directions

- Need for well-crafted research into utilization and success rates for guidance
 - Setting for treatment
 - Length of treatment
 - Type of substance (opioids vs. others)
 - Enforcement mechanisms
- Systemic evaluation of practical considerations
 - Availability of treatment settings and providers
 - Potential to overwhelm the health system
 - How does this intersect with treatment for mental illness
- A re-examining of whether such a mechanism is needed and/or wanted

Summary/Conclusions

- Substance use disorders in the United States are responsible for tens of thousands of deaths and with substantial economic burden
- Commitment statutes in most states, including Maine, generally allow for the civil commitment of persons with substance use disorders who are “dangerous”
- However, very few states regularly utilize these statutes.
- In states who civilly commit persons with dangerous substance use disorders, there data is mixed regarding efficacy of utilizing civil commitment for substance use disorder treatment
- Lack of available substance use treatment facilities is a significant barrier to implementing a pathway for involuntary substance abuse treatment
 - Highly recommend against the widespread implementation of such a policy without significant investment in bolstering and/or creating a treatment infrastructure for those who are committed
- Treatment programs should use evidence-based treatments including psychotherapeutic and psychopharmacologic treatments to maximize benefits and minimize potential harms of violating personal autonomy

THANK YOU!
