

Subcommittee Draft Recommendation - Medications for Opioid Use Disorder in Corrections

November 18, 2022

It is recommended that the State of New Mexico ensures access and choice to FDA approved Medications for Opioid Use Disorder (MOUD) within correctional facilities. MOUD is recognized as the most effective treatment for OUD, and research shows that access to MOUD can significantly reduce fatality due to opioid overdose after a period of incarceration.

1. The purpose of this proposed recommendation is to:

- a. Include provision of evidence-based Medications for Opioid Use Disorder (MOUD)/Medications for Addiction Treatment (MAT) for individuals in custody in New Mexico's correctional facilities.
- b. Increase access to and retention in MOUD, and thereby mitigate heightened risk of fatal and non-fatal overdose among individuals recently released from incarceration.
- c. Reduce opioid misuse in New Mexico and reduce recurrence of use among individuals who are incarcerated or recently released from incarceration.

2. Rationale for this proposed recommendation:

- a. New Mexico's drug overdose death rate is among the highest in the nation. Among those at highest risk for experiencing a fatal overdose are individuals recently released from incarceration. An analysis of matched NMDOH mortality data and NM Corrections data between May 2019 and December 2021 revealed that roughly 30 previously incarcerated New Mexicans died post-incarceration from an accidental overdose. Of these deaths, at least 7 were within two weeks of release. More than half of the deaths from this data set showed that opioids were involved in the fatal overdoses.
- b. Substance Abuse and Mental Health Services Administration, (SAMHSA) reports that "MAT [Medication for Addiction Treatment] reduces drug use, disease rates, and overdose events, as well as, promotes recovery among individuals with opioid use disorders. Across the criminal justice system, MAT has been found to reduce criminal activity, arrests, as well as probation revocations and re-incarcerations." (SAMHSA, 2019). [Medication-Assisted Treatment \(MAT\) in the Criminal Justice System: Brief Guidance to the States | SAMHSA Publications and Digital Products](#)

- c. The National Commission on Correctional Health Care (NCCHC) supports implementation of opiate agonist therapy (OAT) – including methadone and buprenorphine – in correctional facilities, noting that “evidence shows positive results of jail-based MOUD, including increased treatment retention and reduced illicit opioid use, reduced criminal behavior and recidivism, reduced mortality and overdose risk, and reduced HIV/hepatitis C risk behaviors.”(NCCHC Foundation, 2021). [From the General Public to Americas Jails - MAT Saves Lives.pdf \(wpengine.com\)](#)
- d. In 2018 The American Journal of Public Health noted that the risk of an opioid overdose death two weeks post release is 40 times higher than the general public and the risk of a heroin overdose death is 74 times higher, and remained 18 times higher one-year post release.

3. The data supporting this proposed recommendation:

Data demonstrating Need:

- a. Former NMDOH CSTE Fellow Shahnaj Safi presented a poster at a conference on data she compiled for a recently released prisoners project in New Mexico. The Poster showing the data is attached.
- b. According to the CDC’s State Unintentional Drug Overdose Reporting System (SUDORS), 12.9% of New Mexico drug overdose deaths in 2020 were among individuals recently released from an institutional setting. Periods of abstinence due to incarceration can elevate a person’s risk of fatal overdose because their tolerance drops; this risk factor is especially prevalent among those recently released from incarceration.
- c. A 2009 study focused on New Mexico sought to determine whether persons released from prison in the state of New Mexico have an increased risk of death due to unintentional drug overdose in the time immediately after release from prison. A total of 96 people were identified who had been released from prison and subsequently suffered an unnatural death in 2001 through 2003. Among those who had drug-caused deaths, there was a significantly increased risk of dying in the first 2 weeks after release versus the subsequent 10 weeks. For those who died in the first 2 months after release, there was an increased risk of fatal drug overdose compared with dying of other unnatural causes. Of those who died of fatal drug overdoses within the first 2 months, the average incarceration time was significantly longer than those who lived longer than 2 months after release and they were more likely to have used opiates and sedatives (C.S. Krinsky et al., 2009).

Data demonstrating potential benefit of MOUD

d. REDUCED MORTALITY:

Rhode Island Department of Corrections implemented a MAT program throughout the state's correctional system and found that in the first year of this program's implementation, there was a 12% drop in statewide overdose deaths and a 61% drop in post-incarceration overdose deaths. (Green, T. C., et al. 2018)

e. REDUCED RECIDIVISM:

- i. "Among incarcerated adults with opioid use disorder, risk of recidivism after jail exit is lower among those who were offered buprenorphine during incarceration." A comparative study conducted in the Franklin County Jail in Massachusetts, which was among the first to provide buprenorphine, and the nearby Hampshire County jail, which began providing buprenorphine later, found that individuals who had been incarcerated in Franklin who were offered buprenorphine had lower rates of recidivism than those in Hampshire County, who were not offered buprenorphine at the time. Overall, 469 men in the two jails had a diagnosis of opioid use disorder: 197 in Franklin County and 272 in Hampshire County. More than 90% of those in the Franklin County jail received MOUD, most often buprenorphine. In contrast, none of the men in the Hampshire County jail received drug treatment for opioid use disorder. All men who re-entered their community through mid-2019 were followed for at least one year. During follow-up, fewer than half (48.2%) of men who had been in the jail that offered drug treatment were rearrested or reincarcerated, compared with 62.5% of men released from the jail that didn't offer MOUD (Evans, Elizabeth A., et al., 2022).
- ii. A 2022 New Mexico-based study of the Methadone Maintenance Treatment (MMT) program administered at the Metropolitan Detention Center in Albuquerque demonstrated that "inmates who participated in MMT initiation and continuation had approximately 19- and 31-days lower reincarceration days, respectively, in the one-year period after release" (Horn, Brady P., et al., 2022). The study also demonstrated that longer duration of engagement in MMT resulted in a greater reduction of reincarceration days. (Horn, Brady P. et al., 2022).

4. Current statute, rules, regulations, or recently proposed legislation related to this recommendation:

- a. **New Mexico Litigation related to failure to provide MOUD treatment:** The estate of a decedent who alleged an individual died from heroin withdrawal

while incarcerated in the Santa Fe Adult Detention Facility in 2016 brought a case alleging Eighth and Fourteenth Amendment claims. In 2020, the Tenth Circuit held that the plaintiff plausibly alleged claims against an officer at the facility who did not attempt to provide medical assistance or request any further treatment.

- b. **US Litigation:** “Denying individuals access to medications for OUD in correctional facilities has been challenged in courts as unconstitutional under the Eighth Amendment’s prohibition on cruel and unusual punishment and as a violation of federal civil rights laws. The Eighth Amendment, the Americans with Disabilities Act (ADA) and the Rehabilitation Act are the most frequently cited legal authorities for providing MAT to qualifying inmates.”
- c. **MOUD programs in other states:** According to a 2021 snapshot conducted by the O’Neill Institute for National and Global Health Law at Georgetown Law Center, at least 28 states have issued executive orders, developed policies, and/or allocated funding related to SUD treatment in correctional facilities. At least one form of MOUD treatment is typically required in these programs. Agonist therapies, including buprenorphine and methadone, are becoming more widespread.

5. Implementation requirements of this proposed recommendation include:

- a. **SCREENING & ASSESSMENT:** Develop a system for assessment and screening to identify individuals with OUD and eligible to receive MOUD/MAT.
 - i. Considerations for eligibility criteria should include: 1) individuals previously engaged in MOUD in the community prior to arrest who need **continuation of treatment**; 2) individuals diagnosed with moderate or severe OUD who need to **initiate treatment**; 3) individuals who are within three to six months of release to the community who need to initiate treatment; 4) individuals at highest risk, including pregnant people.
 - ii. Considerations for eligibility and dosing should also include what formularies of the FDA-approved Medications for Opioid Use Disorder are best indicated to meet individual needs.
- b. **CONTINUITY OF CARE:** Transitioning people into treatment post-release. Develop relationships with community-based providers to support continued treatment after release.
 - i. Establish pre-release planning to ensure linkage to continued MOUD treatment; link to peer support or case management for support and care navigation.
 - 1. Incorporate Telehealth
 - 2. Distribute naloxone

- ii. Ensure that Medicaid is re-activated immediately upon release. If Medicaid will not be re-activated immediately upon release, ensure that the individual can leave custody with a 7-14 day script that can be filled under NM Corrections insurance.
- c. **EVALUATION & REPORTING:** Establish system for data and information sharing – possibly through Health Information Exchange – to ensure continuity of care upon release and data to demonstrate program impact.
- d. **MITIGATE RISK OF DIVERSION:** Develop protocol to prevent diversion and monitoring of medication administration.
- e. **ENSURE ADEQUATE STAFFING:** Ensure adequate staffing to administer and monitor implementation of MOUD program; best practice suggests that the staff composition should include: medical staff, program coordinators, and security. Additional supportive staffing may include Certified Peer Support Workers (CPSWs) or care navigators to support continuity of care post-release.
- f. **MOUD EDUCATION:** Incorporate training on MOUD/MAT, stigma reduction, and trauma-informed care and response for all facility staff.

6. References

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- b. C.S. Krinsky et al., “Drugs, Detention, and Death: A Study of the Mortality of Recently Released Prisoners,” *American Journal of Forensic Medicine and Pathology* 30, no. 1 (2009): 6-9, <https://www.ncbi.nlm.nih.gov/pubmed/19237844>; E.L. Merrall et al., “Meta-Analysis of Drug-Related Deaths Soon after Release from Prison,” *Addiction* 105, no. 9 (2010): 1545-54, [Drugs, detention, and death: a study of the mortality of recently released prisoners - PubMed \(nih.gov\)](#)
- c. Green, T. C., Clarke, J., & Brinkley-Rubinstein, L. (2018). Postincarceration Fatal Overdoses After Implementing Medications for Addiction Treatment in a Statewide Correctional System. *JAMA Psychiatry*, 75(4), 405-407. [Postincarceration Fatal Overdoses After Implementing Medications for Addiction Treatment in a Statewide Correctional System | Psychiatry and Behavioral Health | JAMA Psychiatry | JAMA Network](#)
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- g. National Commission on Correctional Health Care (2021). "From the General Public to America's Jails: MAT Saves Lives. White Paper December 2021. [From the General Public to Americas Jails - MAT Saves Lives.pdf \(wpengine.com\)](#)
- h. National Institutes of Health. (2022). "Treatment for Opioid Use Disorder in Jail Reduces Risk of Return". [Treatment for opioid use disorder in jail reduces risk of return | National Institutes of Health \(NIH\)](#)
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- j. Substance Abuse and Mental Health Services Administration (SAMHSA): **Medication-Assisted Treatment (MAT) In the Criminal Justice System: Brief Guidance to the States. PEP19-MATBRIEFCJS** SAMHSA Publications and Digital Products. (n.d.). Retrieved August 3, 2022. [MEDICATION-ASSISTED TREATMENT \(MAT\) IN THE CRIMINAL JUSTICE SYSTEM: BRIEF GUIDANCE TO THE STATES \(samhsa.gov\)](#)
- k. [Return to drug use and overdose after release from prison: a qualitative study of risk and protective factors - PMC](#)
- l. [The Impact of Jail-Based Methadone Initiation and Continuation on Reincarceration](#)
- m. [www.cdc.gov/drugoverdose/fatal/dashboard/index.html](#)