

# Destigmatizing Opiate Addiction: Why the PA State Supreme Court Rulings Establishing Legality of Overdose Prevention Sites Should Be a Model for a Federal Amendment to the Anti-Drug Abuse Act of 1986

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## Abstract

This Commentary brings a new proposal for eliminating some of the existing barriers to opening overdose prevention sites in the United States. With a multitude of evidence-based research cited, there is strong support for the argument that especially due to the Covid-19 pandemic there must be more comprehensive federal legislative action taken in order to allow access to a proven model of prevention and care for those experiencing opiate addiction.

## Introduction

### Philadelphia's current crisis

Philadelphia is one of many US cities continuing to face the direst of circumstances for opiate addiction. Out of all 44 of the nation's counties with 1 million residents or more, Philadelphia took the lead for the most overdose deaths in 2017. In that same year, four times as many people died from opioid overdose as homicide [1]. According to a recent study by Pew Charitable Trusts, 29% of Philadelphia residents (3 in 10 people) know someone personally who has died from opioid use, and about a third have been directly affected by the opioid epidemic in some way [2]. Unintentional overdose deaths involving opioids climbed by a steady 3% each year in Philadelphia from 2013 to 2017, with a slight decrease in 2018 for the first time, but then in 2019 overdose death rate rose by 3% again (2019).

### Covid-19's Effect on the Opioid Epidemic

Compounding socio-economic issues, the Covid-19 pandemic, and an overall lack of effective harm reduction policies are exacerbating a critical situation that must be addressed more specifically with respect to current circumstances. The American Medical Association [3] reports overdose increases in 40 states since the pandemic began. Based on this, and previous years of data, it should be anticipated that overdose deaths and hospitalizations will continue to rise. The AMA (2020) report states:

"This issue brief underscores the need to remove barriers to evidence-based treatment for those with a substance use disorder as well as for harm reduction services, including sterile needle and syringe services and naloxone."

The Substance Abuse and Mental Health Services Administration issued a statement earlier this year making recommendations for drug treatment centres in order to best abide by CDC guidelines for Covid-19, encouraging outpatient services to be utilized as much as possible over inpatient/residential programs [4]. Overdose Prevention Sites (OPS) for opiate users are a proven effective form of outpatient harm reductive care that could be utilized if work is done to eliminate some of the legal barriers in the US. Unforeseen health crises have occurred due to the Covid-19 pandemic which has prevented access to health and mental health services. Emergency rooms have become dangerously overwhelmed. It is under these current circumstances especially that Philadelphia needs OPS.

## The Impact of OPS/Models of Care

The world's first of many OPS was founded in 1986 in Bern, Switzerland, and since then there have been no overdose deaths in any sites of the kind among millions of injections by thousands of users throughout the decades. More than 100 OPS exist in 10 countries including Canada, but so far there are still none in the US [1].

Many Philadelphia residents' perceptions of OPS are that they seem counterintuitive, but several studies cited in the final report commissioned by the Mayor's Task Force to Combat the Opioid Epidemic in Philadelphia provide evidence of effectiveness [5]. OPS were not only shown to prevent overdose deaths but also reduced drug use by promoting treatment and recovery. OPS also led to a decrease in disease transmission and injection, decreased burden on police, fire, and emergency departments, and improved neighbourhood sanitary conditions (2019). The Opioid Task Force also commissioned a study specific to Philadelphia which found that opening just one OPS could save up to 75 lives annually along with millions of dollars in costs from hospitalizations and ambulances [1]. The data from existing OPS abroad is also staggeringly clear. Toronto's OPS, for example, has reversed more than 1,400 overdoses since 2017 (2020).

The City of Philadelphia [6] released a fact sheet addressing some of the main community concerns and misconceptions about OPS, highlighting the critical fact that these sites are designed to ensure people do not die while they are using so they can then have the opportunity to seek treatment. The purpose is not to promote the use of drugs, but to offer access to trained staff that can help reverse overdoses and also offer access to treatment. The City of Philadelphia [6] reports the following:

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**Received** December 23, 2020; **Accepted** February 15, 2021; **Published** February 22, 2021

**Citation:** Thomas BN (2021) Destigmatizing Opiate Addiction: Why the PA State Supreme Court Rulings Establishing Legality of Overdose Prevention Sites Should Be a Model for a Federal Amendment to the Anti-Drug Abuse Act of 1986. J Addict Res Ther 12: 419.

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“OPS do not negatively affect the neighbourhoods they are in. Studies show they lead to fewer littered syringes and less open-air drug use. OPS do not worsen crime or drug use. Police in Vancouver support their site because it saves lives and doesn’t create more crime”.

The City of Philadelphia [7] reports that the city itself will not be paying for OPS, but that they are in search of an organization which will. Safehouse Philly, a privately funded, 501(c) (3) tax-exempt Pennsylvania non-profit corporation, has come to the closest of any of those organizations in its two-years of fighting to establish a location.

The Safehouse Model [8] does not provide illegal drugs. Based on the intake of assessment of physical and behavioural health, services are offered and data is collected. There is a medically supervised consumption room where sterile equipment, fentanyl test strips, overdose reversal and emergency care, and safe disposal of equipment are provided. In the medically supervised observation room there is overdose reversal and emergency care, certified peer specialists, and services offered. Medical services include wound-care, on-site initiation of Medically Assisted Treatment (MAT) and recovery counselling, HIV and HCV counselling, testing, and treatment, as well as referrals to primary care practitioners. Wraparound services include referrals to social services, legal services, and housing opportunities. Upon checkout, clients are offered services again and provided with a supply of naloxone (Safehouse Philly).

## Legal Landscape

Despite the February 25, 2020 reinforcement of the Federal District Court ruling that Safehouse’s model [7] is legal; the judge halted the site’s opening in June 2020 due to the pandemic and police protests. As of November 16, 2020, a US Attorney has taken the case to the 3rd Circuit Court of Appeals for another review which is predicted to rule in Safehouse’s favor [7].

President Trump’s Department of Justice has been opposed to OPS and made arguments against them in and out of court, but President Elect Joe Biden’s DOJ could decisively drop the case against Safehouse if he stands to prove his commitment to more progressive drug policies than he says he now regrets having during the war on drugs era of the crack cocaine crisis [9]. During Biden’s time serving as a Senator in 1986, he wrote and advocated for 21 U.S.C. §856(a) [10] a section of the Anti-Drug Abuse Act formally titled “maintaining drug-involved premises,” known as the crack house statute. This statute was designed to prohibit the manufacturing, distribution, and use of crack cocaine and other controlled substances on any property, but this is also the very law which has been challenged repeatedly in *The US vs. Safehouse* hearings [11].

On October 2, 2019, a federal district court judge ruled that §856(a) [10] does not prohibit Safehouse due to the fact that its proposed operation is designed not to facilitate but to reduce drug use (Safehouse Philly). Two appeals later, it is still hopeful that the original ruling will stand.

Massachusetts, another state in the top 10 for opioid overdose deaths, was on track to have its first OPS open in 2020 in Somerville—nearly beating Philadelphia at becoming the nation’s first site of its kind. Legal issues and the pandemic have stalled plans there as well, but the state’s Joint Committee on Mental Health, Substance Use and Recovery passed Bill S.2717 and Bill H.1712 [12] in May 2020 establishing a 10-year pilot program for OPS supervised by the Department of Public Health.

## Implications for the Field

Rather than having each individual state in the US go through such time consuming legal processes, a new federal law should be created in order to establish an updated federal Anti-Drug Abuse Act reflective of the current state of opioid addiction crisis. It has been more than 34 years since the law was originally enacted. The first wave of the opioid epidemic came in 1991 when prescription opioids were beginning to be prescribed on a massive level with the assurance that the drugs are non-addictive. The facts are now widely known about how this led to the current epidemic. It is critical that legislative action is taken to establish an overarching legal standard for OPS in the US.

It is critical that lawmakers recognize that by allowing such blurred boundaries when it comes to this outdated federal legislation, unacceptable delays are taking place for establishing proven methods of harm-reduction and treatment for the ever-increasing number of people suffering opioid addiction in America. By allowing for these roadblocks to remain in existence, the US is losing tens of thousands of people annually who could potentially be saved by OPS and led to the path of recovery. As it stands, it is inevitable that individual states will have to write and attempt to pass legislation for programs similar to those taking place in Massachusetts, and also that each individual organization’s model within those states will face the legal challenge of the crack house statute. These processes are taking years to be finalized, meanwhile the number of overdose deaths are increasing. By establishing a more progressive, coherent, and comprehensive federal amendment to the crack house statute, there is also potential for cost savings from the many individual state legal proceedings that could be avoided.

## Reducing Stigma

Not only would amending the crack house statute to remove barriers to OPS immediately save lives, but it would also help destigmatize opioid addiction by no longer allowing a proven pathway to recovery from being associated with a federal act that is referred to in such a derogatory way. Repeatedly having to argue the legality of OPS in each individual US state, especially in terms of whether or not they apply to this outdated law, perpetuates misconceptions of the programs and further stigmatizes an already marginalized group of people and their families. Condemning a safe clinical setting for those experiencing opioid addiction further shames and pushes these individuals to the dark fringes of our cities.

Scott Weiner, [13] wrote for the Harvard Health Blog (2017) stating the following:

“If we are going to agree that opioid use disorder is just another medical condition that needs to be treated, then the compassionate thing to do is to remove the stigma associated with it and reduce associated harms while a person is suffering with substance use disorder. Plain and simple: people with this disease are going to use drugs. Is it better for them to use in the shadows, risking transmission of serious infectious diseases, or monitor them when they are using and be there for them to get them treatment at the moment they are ready?” (Safe injection sites and reducing the stigma of addiction).

A similarly harmful legal barrier to care was the criminalization of HIV transmission in 33 US states since the beginning of the AIDS pandemic. Five states have modernized their policies since 2014 following several case studies proving that criminalizing HIV transmission, especially with modern advances in anti-viral treatment, actually caused more harm to public health [14]. Stigmatizing HIV transmission with punitive measures only disincentivized people from

getting tested and knowing their HIV-status. By decriminalizing and therefore destigmatizing HIV transmission, those states enable better access to testing and quality care (2020).

## Conclusion

As the US is now approaching wide-spread vaccine access for Covid-19, it is pivotal the discussion of OPS comes back into focus so that cities like Philadelphia can provide better care for those suffering from the combined fallout of the opioid epidemic and the pandemic. More wide-spread media coverage and awareness campaigns are needed to better inform the public on the reality of what OPS are proven to do for individuals and communities. More specific OPS legislation is required. Additional cost-benefit analyses and data collections are necessary in the US to outline the clear benefits of OPS in order to better inform lawmakers on not only the potential financial savings, but also the considerable amount of human lives that would be saved.

## Acknowledgement

My sincere thanks to Temple University School of Social Work, Professor Omar Martinez and my classmates from Social Welfare Policy fall 2020.

## References

1. Szalavitz, M (2019) How to survive a death crisis: as the opioid epidemic rages on, our best shot at saving lives will be to employ proven harm-reduction methods like safe-injection sites. *The Nation* 308: 16–21.
2. Eichel L, Pharis M (2019) Poll Shows Impact of Opioid Crisis on Philadelphians and Their Neighborhoods.
3. American Medical Association (2020) Reports of increases in opioid- and other drug-related overdose and other concerns during COVID pandemic. AMA Advocacy Resource Center.
4. Substance Abuse and Mental Health Services Administration (SAMHSA) (2020) Considerations for the care and treatment of mental and substance use disorders in the COVID-19.
5. <https://www.phila.gov/documents/opioid-task-force-report/>
6. The City of Philadelphia (2019) Overdose Prevention Sites Fact Sheet.
7. Jones A (2020) Drug 'Safehouse' Challenge Stumbles at 3rd Circuit. Courthouse News Service.
8. <https://www.safehousephilly.org/about/the-safehouse-model>
9. Siegel Z (2020) One Simple Way Biden Could Prove He Regrets His Role in the Drug War.
10. <https://www.law.cornell.edu/uscode/text/21/856>
11. Kreit A (2019) Safe Injection Sites and the Federal "Crack House" Statute. *BCL Rev* 60: 413.
12. <https://malegislature.gov/Bills/>
13. Weiner S (2017) Safe injection sites and reducing the stigma of addiction. *Harvard Health Blog*.
14. Baskin S, Ahmed A, Forbes A (2016) Criminal Laws on Sex Work and Hiv Transmission: Mapping the Laws, Considering the Consequences. *Denver Law Rev* 93: 355–388.