

# The Criminal Justice Response to Opioid Trafficking in Michigan

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# Overview

- The opioid crisis has had a significant impact on criminal justice agencies
  - Nationally, 10% of the economic burden of the opioid crisis is borne by criminal justice agencies (CDC, 2016)
  - From 2013 to 2017 the economic cost of the opioid crisis increased from \$78.5 billion to \$504 billion
    - Police response to overdose calls for service, time spent investigating fatal and non-fatal overdoses, additional training, cost of providing Narcan, etc.
- Thus far, most federal and state resources have been directed toward prevention, treatment, and education

# Overview Continued

- The State of Michigan has been active in pursuing solutions
  - 2015 – Prescription Drug and Opioid Task Force/Commission
    - Recommendations regarding prevention, treatment, regulation, and enforcement
    - Law changes (PA 246-255 of 2017)
      - Requires a state-wide review of patient subscription history for more than a 3 day supply
      - Limits prescriptions to a 7-day supply within a 7-day period for acute pain
      - Requires a bona fide prescriber/patient relationship
      - Upgrades to computer system for tracking controlled substance prescriptions (MAPS)

# MAPPR Research Project

- Seek to identify investigative strategies, resources, and legislation necessary to successfully prosecute opioid trafficking.
- Surveyed Michigan narcotics investigators and county prosecutors
  - 252 narcotics officers – 140 responses
  - 83 prosecutors – 21 responses

# Investigative Challenges

- Difficult to build a case against large-scale dealers
  - Most small-scale dealers are addicts
    - Difficult to use them as informants
    - Less-than-credible witnesses at trial
- Unintended consequences of the Good Samaritan Clause and the availability of Narcan
  - Users fake overdose to avoid prosecution
  - Users have less fear of overdose

# Investigative Challenges

- Significant decrease in the number of narcotics investigators due to lack of funding
  - Many local departments are still recovering from the Recession
  - Northern Michigan teams have 4-5 investigators that cover 3 – 5 counties
  - Lower MI teams have 5-6 members that cover 1-2 heavily populated counties
    - Ingham/Eaton/Clinton county team went from 14 to 5 investigators in a matter of a few years

# Investigative Challenges

- Michigan narcotics investigators cannot use wiretap technology to monitor drug-trafficking communication in real-time
  - Michigan is one of only four states that do not permit state and local police officers to use wiretaps

# Prosecutorial Challenges

- Delay in receiving crime lab test results
  - Significant back-log for testing
  - Extends the time between arrest and prosecution
- Difficult to determine the location/jurisdiction where delivery occurred
  - The venue must be established as an element of the crime
- Illegal drug manufactures are creating analogues of synthetic opioids to avoid meeting the definition of a controlled substance



# Recommendations

- Provide alternative incentives for cooperation
  - Immediate access to rehabilitation services
  - Immunity for medical care workers who report patient information related to overdose
- Consider requiring counseling and/or rehabilitation services for Naloxone recipients and those who utilize the Good Samaritan Clause

# Recommendations

- Consider wiretap legislation
- Increase funding to state and local police agencies for additional investigators and investigative resources (MAPS training, etc.)
- Increase funding for the State Police crime lab
- Consider legislation that addresses the analogue issue – mechanism to keep up with scientific changes

# Recommendations

- Modify current laws to offer a broad range of options for prosecution
  - Delivery causing death (friend vs. dealer)
  - Drug courts
  - Social services
  - Other evidence based best practices

# Resources and Additional Information

- Michigan Prescription Drug and Opioid Task Force Report of Findings and Recommendations for Action
  - [https://www.michigan.gov/documents/snyder/Prescription\\_Drug\\_and\\_Opioid\\_Task\\_Force\\_Report\\_504140\\_7.pdf](https://www.michigan.gov/documents/snyder/Prescription_Drug_and_Opioid_Task_Force_Report_504140_7.pdf)
- Michigan Opioid Laws
  - [https://www.micnp.org/assets/Legislative/LARA\\_DHHS\\_Opioid\\_Laws\\_FAQ\\_05-02-2018.pdf](https://www.micnp.org/assets/Legislative/LARA_DHHS_Opioid_Laws_FAQ_05-02-2018.pdf)
- Michigan Association of Chiefs of Police
- Prosecuting Attorneys Association of Michigan