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“One guy goes to jail, two people are ready to take his spot”: Perspectives on drug-induced homicide laws among incarcerated individuals

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Abstract

Background—As overdose deaths have increased in the United States, some lawmakers have explored punitive, “supply-side” interventions aimed at reducing the supply of fentanyl. While a rationale of seeking to protect people who use drugs is often given to justify harsh sentences for fentanyl distribution, there is no research to our knowledge on perceptions of the effect of drug-induced homicide laws among people who use drugs.

Methods—We conducted semi-structured, qualitative interviews with 40 people with opioid use disorder (OUD) who were enrolled in a medication for addiction treatment (MAT) program in a unified jail and prison system in Rhode Island on attitudes surrounding increased sentences for distribution of fentanyl, including recently enacted drug-induced homicide laws. Codes were developed using a generalized, inductive method and interviews analyzed in NVivo 12 after being coded by two coders.

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None.

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Results—Most participants stated that drug-induced homicide laws would not be an effective strategy to stem the overdose crisis. We identified key themes, including discussions surrounding the autonomy of people who use drugs, widespread fentanyl prevalence as a barrier to implementation of drug-induced homicide laws, discussions of mass incarceration as ineffective for addressing substance use disorders, feelings that further criminalization could lead to violence, criminalization as a justification for interpersonal loss, and intention as meaningful to categorizing an act as homicide.

Conclusions—Findings highlight the importance of centering the experiences of people with OUD in creating policies surrounding the overdose epidemic, potential unintended health consequences of drug-induced homicides laws such as deterrence from calling 911 and increased violence, and how drug-induced homicide laws may undermine advances made in expanding access to OUD treatment for people who are criminal justice-involved.

Keywords

qualitative research; incarceration; overdose; fentanyl

Introduction

Overdose deaths have rapidly increased in the United States (US) in recent years, tripling from 1999 to 2014 (Mercado et al., 2017; Rudd, 2016). In 2017 alone, over 70,000 people in the US died from drug overdoses (Murphy et al., 2018). The overdose epidemic in the US is largely thought to have had three phases beginning with increased prescription and use of opioids. The second phase was marked by an increase in overdoses from heroin, and the third, and current, phase includes an increase in fentanyl-contaminated heroin supplies (Calcaterra, Glanz, & Binswanger, 2013; Cerdá et al., 2013; Dasgupta, Beletsky, & Ciccarone, 2018; Kenan, Mack & Paulozzi, 2012).

Rhode Island (RI) has experienced a high burden of overdose deaths, which increased by almost 90 percent from 2011 to 2017 (Prevent Overdose RI, 2019). Additionally, fentanyl was involved in 205 of the 323 overdose deaths that took place in 2017. (Prevent Overdose RI, 2019) Despite the low demand for fentanyl among people who use drugs, prevalence of fentanyl in RI is high (Carroll et al., 2017; Macmadu et al., 2017). People who are criminal justice (CJ) involved are at exceptionally high risk for overdose following release. (Bingswanger et al., 2011; Bingswanger et al., 2013; Brinkley-Rubinstein et al., 2017; Farrell & Marsden, 2008; Merrall et al., 2010). In RI specifically, 21% of all overdose victims in 2014 and 2015 had been incarcerated in the year before overdose (Brinkley-Rubinstein et al., 2017).

In response to rising overdose deaths—particularly overdose deaths from fentanyl—across the US, lawmakers have implemented “supply-side” interventions aimed to reduce the drug supply and deter sellers of fentanyl. These include laws, regulations, and enforcement activities that aim to address activities from drug distribution to production (Greenfield & Paoli, 2017). As overdoses from fentanyl have increased, popular media has also reported anecdotal accounts of first responders—including law enforcement officers— encountering fentanyl and requiring treatment for toxicity (Guyette, Lynch, & Suyama, 2018), creating

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public pressure for policymakers to intervene. One of these interventions has been the enacting of drug-induced homicide laws, which criminalize the delivery of illicit drugs that result in fatal overdose (Drug Policy Alliance, 2017). At present, twenty states—including Rhode Island—have adopted drug-induced homicide laws (Drug Policy Alliance, 2017). Rhode Island's drug-induced homicide law was signed into law in 2018, and it provides up to a life-in-prison sentence for anyone who sells, delivers, or distributes a drug that leads to a fatal overdose (Gregg, 2018). At present, one person has been charged since the law's implementation (Newport Daily News, 2019).

While the law enshrines "Good Samaritan Law" protections that grant legal immunity to those who call 911 in the event of an overdose, local advocacy groups and medical providers have expressed concern that these laws may not be sufficient. They have contended that people may be dissuaded from seeking help in the event of an overdose as people fear criminalization out of being associated with drug selling at an overdose scene, especially after hearing about harsher penalties (Gregg, 2018). Harsher criminalization of substance use in the US has historically had no impact on improved substance use outcomes (Friedman et al., 2011), and deterrence-based policies have been associated with higher rates of incarceration and negative public health outcomes such as increased HIV prevalence among people who inject drugs (Friedman et al., 2006). Additionally, mass incarceration—including mandatory minimum sentences for minor drug charges—has exacerbated health disparities among already underserved communities, particularly communities of color (Dumont et al., 2013; Moore & Elkavitch, 2008).

Although little research has focused on drug-induced homicide laws, they have been criticized by advocacy organizations and medical professionals for failing to stem the overdose crisis (Parker, Strunk, & Fiellin, 2018). The medical community has noted that drug-induced homicide laws could reduce the likelihood of calling 911 in the event of an emergency, criminalize "low-level" sellers at the bottom of the drug distribution hierarchy, and increase rates of incarceration (Parker, Strunk, & Fiellin, 2018; Drug Policy Alliance, 2017). Others have noted that previous policies that mandated harsh sentencing through the "War on Drugs" in the US failed to stem rates of overdose and decrease drug use (Csete et al., 2016). Drug-induced homicide laws have also been criticized as a mechanism for policymakers to signal to sellers that harsh penalties exist for selling fentanyl. However, critics note that these signals fail to address the complicated dynamics in which people who sell drugs often experience substance use disorders themselves (Beletsky, 2019). Instead, these laws send messages dissuading individuals from seeking help for overdoses (Beletsky, 2019). For example, it has been documented people who use drugs may also engage as sellers to fund their own substance use rather than to profit off of the substance use disorders of others (Kerr et al., 2011).

There is little research to our knowledge on impact of harsh criminalization on fentanyl distribution. Perspectives of people who use drugs are especially important considering that they can offer insight into the dynamics of drug selling and use that may be unknown to policymakers. Therefore, in the present study, we interviewed 40 people with opioid use disorder (OUD) who were enrolled in a MAT program in a unified jail and prison system in

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Rhode Island on attitudes and perceptions surrounding increased sentences for distribution of fentanyl, including the recent proliferation of drug-induced homicide laws.

Methods

We conducted 40 semi-structured, qualitative interviews with people with OUD who were incarcerated at the Rhode Island Department of Corrections (RIDOC), the statewide unified jail and prison system. All participants were enrolled in a MAT program consisting of access to a methadone, buprenorphine, or naltrexone regimen. As part of a comprehensive study analyzing the implementation of the MAT program we asked questions surrounding awareness of and attitudes on harsh sentences for fentanyl distribution including drug-induced homicide laws in Rhode Island. Interviews were completed from June to August 2018, just months after the passage of drug-induced homicide laws in Rhode Island (Gregg, 2018).

Inclusion criteria included current enrollment in the MAT program, being over 18 years old, and being able to read and write in English. Participants were recruited from intake, minimum, medium, and women's facilities at the RIDOC during MAT program group sessions by two research assistants trained in qualitative interviewing. The sample was stratified to proportionally represent type of medication, whether MAT uptake took place in the community prior to arrest or after arrest in the RIDOC, and facility where the participant was currently incarcerated. The study was described during MAT group sessions, and participants confidentially signed up for the study and agreed to be contacted for an hour-long interview at a later time. All interviews were conducted in a private room without correctional officers present. Interviews were digitally recorded and later transcribed. All participants received $25, which was deposited into their commissary account following completion of the interview.

The study was approved by the Miriam Hospital's Institutional Review Board and the RIDOC Medical Research Advisory Group. The interviews covered topics such as attitudes toward MAT, experiences in the MAT program, post-release substance use plans, program ethics, and fentanyl perceptions. In this analysis, we explored answers to the following questions:

1. In Rhode Island, some policy makers have explored harsher prison sentences for people who deal fentanyl. What have you heard about this?
2. What do you think would happen if fentanyl dealers were sentenced more harshly?
3. Do you think it will help the fentanyl overdose crisis? Why/why not?
4. If fentanyl dealers wanted to avoid these harsher sentences, what do you think they could do differently?

Analysis employed a general inductive approach, which allows for research to be divided into codes and themes in line with the questions asked during interviews (Thomas, 2006). Codes were compiled in an initial codebook based on themes from interviews. Four coders, who were members of the research team (LBR, MP, KP, AM), initially performed intercoder

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reliability tests to consolidate the codebook. Any discrepancies that emerged were resolved among the coding team before final coding commenced. Two coders (MP, AT) completed final coding in NVivo 12. Codes were additionally analyzed alongside participant characteristics including race, ethnicity, age, gender, and education level.

Results

Participants ranged from 22–66 years old with a mean age of 37.2, and 70% (n=28) were male. Of those participants, 50% (n=20) were receiving methadone, 47.5% (n=19) were receiving buprenorphine, and 2.5% (n=1) was currently prescribed naltrexone. When stratifying for facility we recruited 10 patients from Intake Services (an entirely male facility where people who are incarcerated at the RIDOC are first processed after arrest), 9 from minimum security, 9 from medium security, and 12 from the women's facility. In total, 50% of participants had been prescribed MAT in the community prior to arrest. The remaining 50% had initiated MAT after their arrest and while incarcerated.

The majority of participants were White 82.5% (n=33); five percent (5.0%, n=2) were Black, and 12.5% (n=7) identified as belonging to another racial group. Additionally, 10% (n=4) were Hispanic. Participants also predominantly identified as heterosexual (87.5%, n=35) with 5% (n=2) identifying as gay or lesbian and 7.5% (n=3) identifying as bisexual. Overall, 20% (n=8) had not completed high school and 40% (n=16) had finished high school, with the remainder reporting education beyond a high school degree (40%, n=16). A majority of participants qualitatively reported that before incarceration, they had been using heroin (95%; n=38); thirty (75%; n=30) used prescription opioids, 21 (53%) used marijuana, 12 (30%) reported benzodiazepine use, and 8 (20%) reported having used alcohol when asked in an open-ended question to describe their substance use history.

Participants varied on the extent to which they felt criminalization was ethically justified, but most did not feel that it would be an effective strategy to stem the overdose crisis. When asked about awareness of recent calls for harsh criminalization for fentanyl distribution, participants discussed newly introduced drug-induced homicide laws, demonstrating that participants with OUD were aware of recent changes in Rhode Island law. Overall, most (n=22) participants stated that newly introduced laws would be ineffective for curbing the overdose epidemic, a minority (n=6) thought they would be effective at reducing overdose deaths, and 11 participants did not clearly state an opinion, instead discussing complexities inherent in drug-induced homicide laws. One participant did not answer the question due to a lack of time in the interview. Perceptions did not notably vary by sociodemographic characteristics.

We identified key themes, including discussions about honoring the autonomy of people who use drugs, widespread fentanyl prevalence as a barrier to effectiveness of drug-induced homicide laws to stem overdose, and discussions of mass incarceration as ineffective for addressing substance use disorders. Additionally, some participants addressed emerging themes such as that further criminalization could lead to violence, criminalization as a justification for interpersonal loss, and intention as meaningful to categorizing an act as homicide.

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Honoring the autonomy of people who use drugs

An important theme that emerged among participants who opposed drug-induced homicide laws was honoring the autonomy who people who use drugs to make decisions about their substance use. Some participants discussed the importance of autonomy, such as the ability of a person who uses drugs to understand the risks involved before using. Participants described that in past drug use experiences, they felt freedom in drug use decision-making. For instance, one participant explained that he would not want his seller to be arrested due to his own decision to purchase the drug. The 28-year-old male participant noted:

> [The seller] didn't put it in a syringe and put it in his arm. [The seller] didn't make him become a drug addict. [The seller] didn't do none of that. Me, a drug addict – I know how it is; so I wouldn't want my dealer – say I OD'd. I wouldn't want my dealer to go to jail for me buying a bag off him, because it was my choice; it was my option. It was my option, to go to him and cop the drugs.

While the autonomy of people with substance use disorders in decision-making regarding drug use has been debated (Levy, 2016), this participant felt that he knew the risks of using drugs before buying and, therefore, what happened subsequently was his responsibility alone. He also felt that his seller was not solely responsible for a potential overdose, and that he "knew how it was," indicating that he understood the dynamics of complicity involved in purchasing drugs from a seller of his choice. Another 36-year-old male participant similarly explained:

> I understand that they're putting people's lives in jeopardy by selling, but the bottom line is if you stick a needle in your arm, you know what you're doing, like you're taking that risk.

Some participants therefore felt that people who used drugs should have autonomy over their own decision-making, and that those who sold to them were not culpable for the cause of unintentional overdose. This theme at times diverged from participants who felt that the law was ethically justified and that sellers contributed to overdose deaths by supplying people who used drugs with batches that were contaminated with fentanyl.

These reflections by participants on autonomy may be framed in the context of medical discourses surrounding tensions between "addiction as disease" and harm reduction models that emphasize agency of people who use drugs to make decisions on risk management (Szott, 2015). Although perceptions on autonomy may fall outside the realm of policy discussions, participants suggested that they felt some control over decision-making in how they used drugs. Past work in Rhode Island has outlined how people who use drugs may adopt risk management strategies such as test hits, seeking prescription opioids instead of heroin, and seeking MAT programs to protect themselves from fentanyl (Carroll et al., 2017). Many participants highlighted the tensions between substance use disorders and risk management strategies, as well as difficulty determining culpability for overdose deaths in supplier-user exchanges.

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Prevalence/control over supply

Among participants who felt that the law was ineffective or would not make a difference in curbing the overdose epidemic, many participants discussed widespread prevalence of fentanyl as a reason why drug-induced homicide laws may not be effective. For instance, a 30-year-old female participant discussed how drug induced homicide laws are excessive, as most sellers are not able to discern whether fentanyl is in their supply due to its pervasive prevalence:

> Yes, yes. If it's everywhere, it's everywhere. Like that's like suing a grocery store for having like what is it? The DDTs or whatever on their food, like the bug spray [insecticides] or whatever. Like you can't help, the grocery store can't help what the farmers' putting on their food […] You'd have to lock every dealer up.

This participant felt that given the ubiquity of fentanyl, it was impossible for a seller to control what was in their supply. She conceptualized sellers as distributors for those who had manufactured the supply elsewhere and had little control over what was in their supply once it got to them. This sentiment was echoed by other participants, including those who expressed that the law would fail to stop fentanyl-contamination and instead only affect those lower on the distribution hierarchy. Another 35-year-old male participant stated:

> They're just buying it to sell it. They're not the scientist that figured it out or whatever. […] I would say go after the bigger guys, you know what I mean?

Because sellers often cannot control the upstream contamination of their drug supply (Mars, Rosenblum, & Ciccarone, 2018), many participants viewed sellers who sold fentanyl as less culpable and forgivable compared to those who had manufactured it and had an active role in supply contamination.

Criminalization and mass incarceration as ineffective for addressing substance use disorders

Many participants who felt that laws would be ineffective in stemming the overdose epidemic alluded to policies that led to the current era of mass incarceration. Additionally, some participants who did not clearly state an opinion weighed criminalization as a reason for why they may hesitate to support drug-induced homicide laws as effective. They discussed the history of criminalization in the US, the idea of "supply and demand" as driving the drug trade, and incarceration as a business. Some participants also discussed how those selling drugs were trying to provide for themselves, as the root issue was lack of employment due to restrictions of rights for those who have a history of incarceration, and how criminalizing addiction even further would make drug use even more unsafe. One 36-year-old male participant who effusively opposed more harsh drug laws noted their ineffectiveness. He stated:

> One guy goes to jail, two people are ready to take his spot. Not at all. It's [drug induced homicide] not going to deter nothing. Look at Reagan and this War on Drugs. I don't want to get into it. […] I see it going on forever. The War on Drugs is a crock. It's a business. That's all that it is. It keeps you with a job. It keeps [people who work in criminal justice] in a job. It's a crock.

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This participant noted how drug induced homicide laws were not aimed to protect people who use drugs, but rather that the laws were aimed to fuel the expansion of the criminal justice system. He noted that past criminalization through the "War on Drugs" had not tangibly addressed addiction, and therefore future laws of this same nature would have similarly adverse effects. Several participants discussed the concept of "supply and demand" as driving the drug market, such as another 33-year-old male participant who stated:

> With the stricter [laws]– I don't know. I doubt it. It's always going to be a supply and demand thing. I know that for a fact. I've been in the game 20 years, 21 years. I know how it goes.

Other participants discussed how people who sold drugs did so to provide for themselves. They believed that drug induced homicide laws would stimulate the job market, and thus would have little impact on people who sell drugs because of the dearth in access to employment, particularly among people who had experienced past incarceration. For example, one 36-year-old male participant who had previously sold drugs stated:

> I don't think it's fair because anybody selling drugs, they're selling drugs now to help provide for their family and put food on the table just like anybody who works. They're trying to get money to pay the bills because they don't want to give [people who have been incarcerated] jobs; so, we're at home selling drugs. You know what I mean? Like, what do they expect us to do? What they can do is give us better jobs and give us better pay. We wouldn't have to sell drugs.

This participant felt that the cycle of incarceration and the restriction of rights among people who had spent time in jail and prison often left people without employment opportunities, which led to people participating in underground economies rather than more formal work.

Participants also differentiated between people who were selling knowingly and those who were sharing their supply with friends without intention of profiting and noted how it was often difficult to distinguish between the two. A 39-year-old female participant described:

> Yeah, I don't think sharing - like, you [shouldn't] get a life sentence for people who share. But if you are out there on the street and you're selling fentanyl to these people and you know you're selling fentanyl to these people, then yeah, I think you deserve a stricter sentence, because you're gambling with their life.

A 33-year-old female participant who was ambivalent about the law stated that it could potentially lead to greater rate of incarceration among people who use drugs and a ramping up of the criminal justice system:

> I think two things: I think it [drug induced homicide laws] maybe would be a good thing, because then they – not life sentence, but a little bit of a higher sentences would good. They would hopefully get out and not sell it […] it [drug induced homicide laws] would be bad for one way, because they could see a [person who uses drugs] as a seller if they're just going and selling a little bit to get their own high, their own fix. So, then they would go to jail for a long time, and that's an addict going to jail just for supporting their habit. I don't think that would work at all.

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This participant explained that the line between people who sell and use drugs can often be blurry and that drug induced homicide laws would ultimately harm people with addictions. Participants therefore cited previous laws with the same underlying punitive philosophy that led to mass incarceration, the restrictions of rights that limited employment opportunities, and the inability to distinguish, at times, the difference between a drug user and seller as reasons why drug induced homicide laws fail to address the overdose epidemic.

Collateral health consequences: Violence and reluctance to call 911 during overdose

Some participants also discussed how drug induced homicide laws could have negative collateral health consequences and impact the safety of people who use drugs. One 37-year-old male participant discussed, for example, how drug induced homicide laws could dissuade individuals from calling 911 in the event of an overdose out of fear that they would be charged with homicide. He stated:

> Honestly, I think it would be worse. Because less people wouldn't want to call it in if someone overdosed because they're afraid of going to jail. So, people are just going to be dying instead of overdosing [non-fatally].

This quote echoed sentiments expressed by other participants that the laws would lead to more violence during drug distribution as it was pushed further out of public view to avoid a drug induced homicide charge. For example, one 36-year-old male participant who had previously sold drugs stated that sellers may, out of desperation to avoid harsh sentences, turn to violence to avoid incarceration. He discussed how someone may be more likely to resort to violence to leave a situation where they were caught with fentanyl. He claimed:

> People would just be more sneaky [with drug-induced homicide laws], and more careful, and more dangerous […] like, okay, you don't want to go to jail, and a cop ends up coming to arrest you, and you're gonna shoot at them, or you're going to run, you know what I mean? The sentence is going to be so harsh that you could end up wanting to kill somebody [at a scene where they are caught with fentanyl] to stay out of there [prison].

These participants expressed that drug induced homicide laws would not lead to increased safety for people who use drugs, but rather could lead to violence during drug distribution and failure to seek call 911 in the event of an overdose.

Loss as a Justification for Criminalization

When conceptualizing whether drug induced homicides were ethically justified, the minority of participants who expressed support for the legislation spoke of interpersonal loss (e.g. a family member, friend or others important to them) as motivation for their support, which is often what propels their passage in the first place, including in Rhode Island. While some participants spoke of drug induced homicide as having a deterrent effect that would prevent future distribution of fentanyl, many felt that the possibility of alleviating feelings of loss served as a justification for implementing the laws. For example, one 47-year-old female participant spoke of losing past friends:

> I wouldn't feel bad [about someone being convicted of homicide for distributing fentanyl]. You deserve it. Who knows if my friends didn't die on account of your

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> hands, you know what I'm saying? I have had friends that died. The one that I revived, he ended up overdosing - like we revived him twice and then […] the third time we tried he died, so who is to say that, you know what I'm saying, you didn't kill my friend, you know what I mean?

This participant felt that her friend's death was attributable to the contaminated fentanyl that someone had sold, and that her friend's seller had caused her friend's death directly. Because of this, the participant felt that those who sold drugs that led to overdose "deserved" a harsh sentence.

Other participants also spoke of losing family members as a reason for supporting legislation. Another 35-year-old male stated:

> If they're selling and people are dying, I think they should spend life in prison. They're taking somebody away from their family. If you know it's fentanyl you shouldn't sell it.

This participant stated that he felt that the life sentence was proportional to the loss of a family member, emphasizing that only sellers *knowingly* selling fentanyl to someone who could overdose deserved life in prison. While other participants expressed similar sentiments (e.g. if people know they are selling fentanyl and don't tell their clients they should be punished), most participants did not support drug-induced homicide laws and those who were equivocal felt that knowledge of fentanyl in the drug supply should be considered in determining the appropriate sentence.

Intention as Meaningful for Determining Criminalization

Among both participants who felt strongly against the implementation of drug induced homicide and those who were unsure if the law was justified, many centered the notion of intention. For example, many felt that sellers who knowingly were giving drugs to someone with a low tolerance should be prosecuted differently than someone who did not know what was in their supply, or who was honest with a person buying from them. On the other hand, those who supported the legislation mentioned that by selling something that could be contaminated with fentanyl, those selling were intentionally harming others.

One participant compared selling fentanyl to someone as handing them a firearm. The 31-year-old male participant stated, "People are dying. Like that's the same thing as handing somebody a loaded gun. It's a loaded needle, you know […] The only difference is they're squeezing the trigger on their own." The intention of committing harm was therefore important to this participant in understanding how to prosecute individuals for selling fentanyl.

Similarly, some participants discussed how they felt that the law should be interpreted differently and on a case-by-case basis on intention. Some participants noted the distinction between selling fentanyl to buyers who were aware of its presence in the drug and those who were knowingly selling fentanyl but marketing it as heroin without fentanyl contamination. For instance, one 37-year-old male stated:

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> Maybe not the death penalty, but you know, I think that if you're knowing, you know, if you're selling fentanyl and you tell me hey this is fentanyl. And I do it, okay that's one thing. If you're sneaking fentanyl into heroin, sneaking it in Percs, or marijuana, or cocaine, and nobody knows and then they do it, yes, then I'm all for a harsher sentence.

Other participants who opposed drug-induced homicide laws for fentanyl distribution discussed how it was unlikely that sellers wanted to kill their clients because a deceased client would lead to reductions in income. These participants therefore felt that it was unlikely that intention in sales was malicious, as they would prefer to keep their clients alive. One participant, a 22-year-old male, stated:

> If you're a drug dealer, you don't want the people that that are buying your drugs to be dying because that's your money. And now you're going to lose that $150-$200 a day that that person brings you because now they're dead. And they pay your bills so a lot of times, you don't want to be killing off your clientele.

On the other hand, some participants also stated that individuals may knowingly purchase a stronger supply from a seller after hearing of an overdose, emphasizing that the intention rested with the buyer. While most research shows that demand for fentanyl is low among people who use opioids (Carroll et al., 2017; Macmadu et al., 2017) some participants perceived that fentanyl seeking occurred. One participant, for instance, stated, "I've got loved ones that died, but then people, went out looking for it, usually it's, you know, someone OD'd- "Yo, let's go get that man's batch." He emphasized that participants sought out the stronger drug supply after hearing of an overdose to obtain a more potent product for its value. Intention therefore was an important aspect for participants in understanding how to prosecute someone for selling a contaminated drug supply.

Discussion

The current study is among the first to explore perceptions of drug induced homicide laws among people who are incarcerated with opioid use disorders. Results highlighted the many ways that people conceptualized the laws and factors that came into play when considering whether they were ethical, justified, or prospectively effective. Our findings suggest that, while perceptions of the justification of such sentences varied, more than half of participants (n=22/40) did not support harsh criminalization as an effective response to altering the drug supply. Participants had doubts about whether they would change the behaviors of drug manufacturers or distributors, thus curbing the overdose epidemic. The majority conceptualized this through difficulty avoiding fentanyl prevalence, criminalization broadly as ineffective, and autonomy of people who used drugs. Among the minority of participants who did support drug-induced homicide laws, participants typically discussed ethics and justification for harms experienced rather than effectiveness of harsh laws on the occurrence of harm. Emerging themes explored intention for determining criminalization, interpersonal loss, and fears of violence after further criminalization.

While no studies to our knowledge have explored perceptions among people who are incarcerated about drug-induced homicide laws, our findings corroborate existing research

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detailing how punitive "war on drugs" policies may adversely impact the health of people who use drugs and their communities (Bluthenthal et al., 1999; Brinkley-Rubinstein, 2013; Csete et al., 2016; Dumont et al., 2013; Flath et al., 2017). Furthermore, it has been previously documented that people who most visibly engage in the lowest levels of drug selling are often disconnected from organized suppliers (Hoffer, Bobashev, & Morris, 2009) and that many people who act as sellers are people who use drugs themselves (Kerr et al., 2011). Many participants articulated similar sentiments and provided reflections on how they perceived that drug-induced homicide laws would target those at the bottom of the drug distribution hierarchy, including people who use drugs themselves. Additionally, it has been documented that fear of arrest may prevent bystanders who are also people who use drugs from contacting 911 in the event of an overdose even with Good Samaritan Laws in place (Latimore & Bergstein, 2017). Threat of arrest specifically for homicide charges may cause bystanders to prioritize their own protection from legal charges over seeking emergency services (McLean, 2018).

An important implication of this study is the centering of experiences of people with OUD in creating evidence-based policy due to their unique contributions in understanding the dynamics of drug distribution networks. For example, some participants who had experience in selling drugs themselves noted that sellers do not always have knowledge that their supply contains fentanyl, or that sellers may be people with OUD themselves. Further, policy decisions exploring how to stem the overdose epidemic should incorporate research that systematically gathers more realistic and nuanced reflections of the drug distribution networks to better understand these dynamics (Greenfield & Paoli, 2012), such as ours. These perspectives additionally allow for an understanding of how messages sent lawmakers aimed at deterrence are received by those most closely effected by the overdose epidemic.

An additional implication of the present study is the severity of life-threatening unintended health consequences raised by participants that could arise alongside the implementation of drug-induced homicide laws. Participants in the study were aware of the passage of drug-induced homicide laws within months after passage, and many discussed how such laws could promote violence to avoid law enforcement and contribute to fears of calling emergency services in the event of an overdose. Drug-induced homicide laws have previously been criticized by medical and public health communities for having similar unintended consequences (Parker, Strunk, & Fiellin, 2018). Participants rarely perceived these laws as having the intended effect of deterrence stated by policymakers in passage, but rather as attempts to further criminalization of people who use drugs. These implications could undercut advances made by states in enshrining Good Samaritan Laws that grant legal immunity to those who seek help by calling 911 in the event of a suspected overdose emergency. Furthermore, Rhode Island has made innovative strides in expanding effective access to treatment for people who are incarcerated (Brinkley-Rubinstein et al., 2018; Green et al., 2018; McCormick, Koziol, and Sanchez, 2017) that could be threatened by a return to punitive, supply-side strategies.

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Limitations

The present study has several limitations. First, the sample was mostly White. Communities of color have been impacted disproportionately by the war on drugs (Dumont et al., 2013; Moore & Elkavitch, 2008), which may impact their perspectives on this law. These findings therefore may not be generalizable. Secondly the sample only included participants with OUD who were enrolled in a MAT program, and did not include those who had refused or were uninterested in MAT during incarceration. It is possible that answers may have differed from those who were not enrolled in MAT based on willingness to take MAT. For instance, people who were not interested in taking MAT may have been more likely to anticipate substance use post-release. Therefore, perspectives of people who were not enrolled in MAT may have been impacted by imagining greater likelihood of future contact with fentanyl. Third, this study did not differentiate between participants who were incarcerated before and after enactment of the law. We additionally did not explore whether participants who sold drugs knew anyone who had overdosed on their supply. With these limitations present, the study intended to provide a snapshot of those incarcerated and enrolled in a correctional MAT program in Rhode Island.

Conclusion

In conclusion, while perceptions of and attitudes about drug induced homicide laws varied across the sample, most participants expressed that these policies would not be effective in mitigating overdose risk and could induce harm to people who use drugs and their communities. Future research should explore the effectiveness of drug-induced homicide laws, and policymakers should integrate such research and evaluation focused on the affected populations (i.e., people who use opioids) in creating policies that effectively address the overdose epidemic.

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