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Cuyahoga County, Ohio, Heroin and Crime Initiative: Informing the Investigation and Prosecution of Heroin-Related Overdose Research Abstract

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Background: The Cuyahoga County Medical Examiner's Office responded to the developing opioid overdose crisis by establishing an overdose scene alert and processing protocol in collaboration with other stakeholders. These stakeholders include the medical examiner's toxicology lab that analyzes decedent samples, the county crime lab that analyzes drug seizures, Cleveland Division of Police, and Cuyahoga County Sheriff's Department. The resulting Heroin Involved Death Investigation (HIDI) protocol is designed to support a safe, coordinated, and rapid response to an active drug-overdose death scene. The protocol guides alerts sent to investigators to notify them of potential dangers (e.g., lethal drugs) and to facilitate the timely protection of the scene and collection of evidence. Potential benefits are to more quickly identify the drugs involved, provide clarity of 'but for cause' of death, and possibly link to the major drug trafficker who supplied them.

Purpose: The purpose of this initiative was to: 1) evaluate the implementation and perceived effectiveness of the HIDI protocol; 2) examine how fatal overdose cases flow through the investigative and prosecutorial stages and how these could be improved; 3) complete extended coding of local medical examiner investigative reports and toxicology to identify demographic or geographic trends or patterns of overdose deaths, as well as paraphernalia and evidence present at death scenes that may be useful to prosecutions; and 4) identify key variables that may contribute to the successful indictment of major drug traffickers connected to fatal and non-fatal overdose cases.

Methods: Medicolegal overdose death investigation files (n=3261) from 2014 through 2019 were coded for toxicology, victim demographics and history, and scene evidence. Federal (n=43) and state (n=78) drug-induced homicide or manslaughter cases identified by prosecutors were evaluated for charges, outcome, and evidence used from public records. Qualitative interviews and focus groups were conducted between April 2018 and September 2021 with those associated with the development of the HIDI protocol and/or impacted by the HIDI interagency network. The purpose was to understand the HIDI protocol, how it worked, and its perceived effectiveness from various stakeholder viewpoints. Interview participants were 54 staff who interacted with the flow of evidence or had information at some point from opioid overdose to prosecution, including medical examiner medicolegal investigators and other medical examiner's office staff, police overdose death investigators, federal and county prosecutors, and other key stakeholders.

Results: Medical examiner decedent coding revealed that from 2014 through 2019, Cuyahoga County overdose victims were more often male (>65%), 45 years of age or older (>50%), white (>74%), and had completed an education level of high school or beyond (>80%). The majority (62%) had two or more drugs listed in the cause of death. Fentanyl/fentanyl analogs including carfentanil and their increased lethality are a driving force behind the rise in numbers of fatal overdoses in Cuyahoga County with 74% of deaths in 2019 attributed to a mixture including one of these opioids.

Review of prosecutorial cases identified no unsuccessful federal prosecutions. Seven state cases that had an indictment/complaint dismissed or terminated and one had a not guilty verdict. Seven of the federal cases were still pending at the time of review. The majority of defendants (federal, 74%; state, 81%) pled guilty before trial. Key pieces of evidence supporting successful federal and state case outcomes found during case review included cell phone/electronic communication evidence, drug paraphernalia, defendant DNA on drug packaging or other paraphernalia, testimony of confidential informants or undercover officers, video surveillance or wire-tapping, and testimony of co-defendants. Federal prosecutions of trafficking cases increased substantially from 2015 to 2020. Federal defendants received sentences of an average of 14.22 years, while defendants in state cases received an average of 4.62 years.

Results of the qualitative interviews revealed that while the implementation of the HIDI alert and protocol were helpful in the quest to prosecute major drug traffickers, there were areas noted that could be improved including (a) the establishment of an alert office tracking overdose data/evidence/cases from the initial HIDI alert through case closure; (b) recognition of police and emergency medical service (EMS) first responders to the importance of the HIDI protocol and conveying information from an overdose death scene to the medical examiner's office to speed distribution of an alert and protect the scene; and (c) education of investigators/prosecutors on the systemic effects of stigma against people suffering from chronic behavioral health diseases that impact their decision to misuse drugs.

Discussion: This study found that a collaborative system for alerting investigators, as well as protecting, collecting, and processing evidence from overdose scenes is essential to successfully prosecuting drug traffickers. Additionally, coding of information from medical examiner overdose-death scene investigations into accessible, analyzable, digital data allows investigators to look for patterns through geography, toxicology, and paraphernalia analysis that can draw direct connections between overdose victims, 'but for cause' of death,¹ and drug suppliers. Such data are now being used to support investigations in Cuyahoga County allowing, for example, identification of all deaths occurring at about the same time where on-scene evidence includes the same type of paraphernalia, packaging, and/or drug. Findings also suggest that information sharing across stakeholder systems, from EMS, law enforcement, and medical examiner early responders to hospital and treatment providers and public health officials facilitates not only successful prosecutions of major drug traffickers, but may also assist

¹ The medical examiner's fully certified autopsy report and verdict complete the documentation of this "but for causation," listing the drug or combination of drugs that, without which, the person could have lived.

in identifying needed harm reduction and treatment opportunities to prevent fatal overdoses. While originally developed to respond to fatal overdose incidents, there is also value for HIDI alerts and team response to non-fatal scenes where information gathered can also inform investigations and prosecutions. Limitations in medical examiner data include the secondary nature of family or witness reports of medical and/or behavioral health histories and/or the circumstances of the overdose. COVID-19 access restrictions limited prosecution case evaluation to publicly available files. The urban nature of Cuyahoga County imposes limitations on the generalizability of some of the qualitative findings to rural and tribal areas. This project identified an innovative, collaborative system of data protection, collection, and flow that supports overdose investigations—as well as opportunities for improvement—that could be modified for implementation in other communities experiencing similar challenges.