



TEXAS CENTER
FOR THE JUDICIARY

2018 Child Welfare Judicial Conference

Substance Abuse Issues, Testing, and Resources

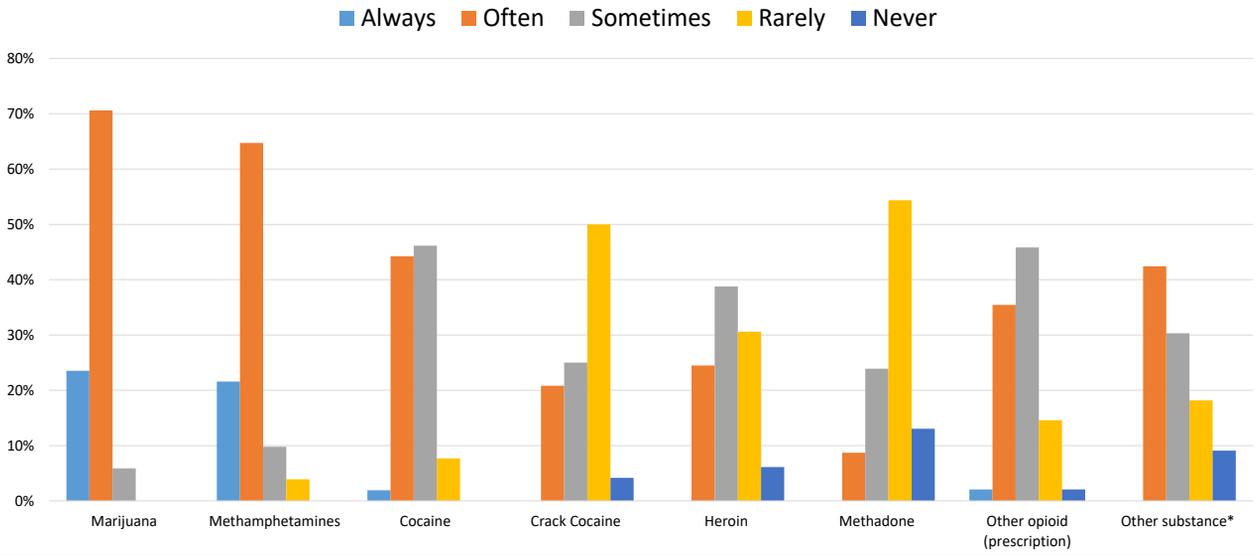
Karen Palombo, Substance Use Disorder Intervention and Treatment Team Lead, Health and Human Services; Marco Quesada, Substance Abuse Program Specialist for DFPS Investigations; Michele Surratt, DFPS Special Litigation Attorney

November 14, 2018

Pre-Conference Survey Results

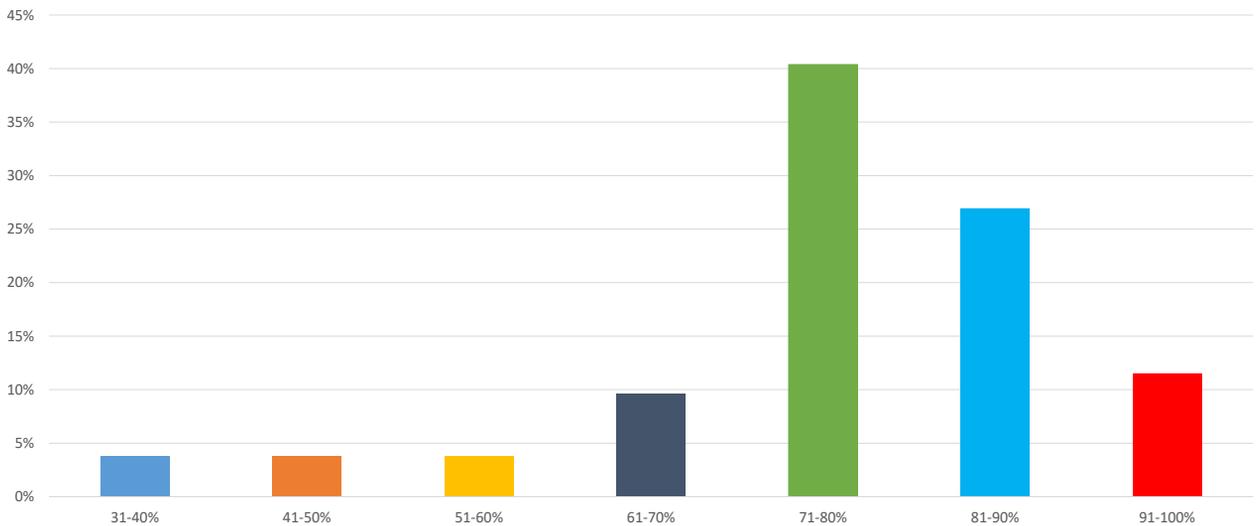
2018 Child Welfare Judges Pre-Conference Survey

Q: Which of the following substance(s) do you see most frequently in cases involving substance use?



2018 Child Welfare Judges Pre-Conference Survey

Q: In what percentage of your cases are drugs the primary reason for CPS involvement (i.e. when the parent(s) cannot care for the child(ren) due to their drug use)?



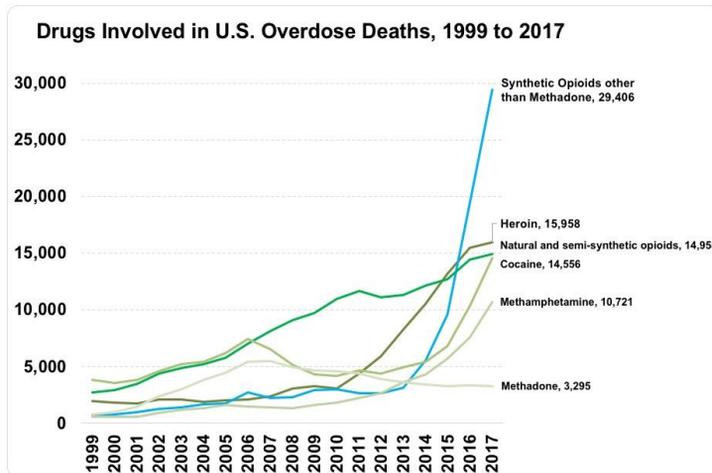
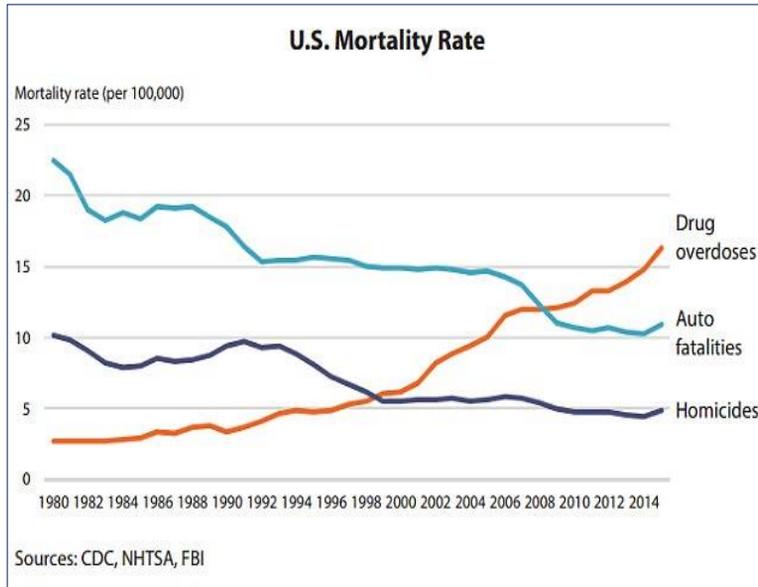
Substance Use in Texas



Overview of Substance Use Disorder

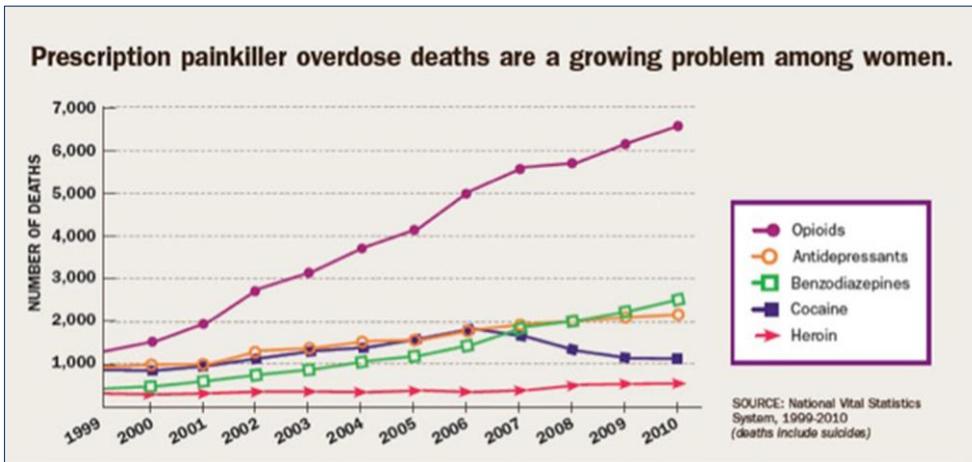
- Substance Use
- Misuse
- Risky Use
- Disorder (Mild, Moderate, Severe)
- Recovery





Source: <https://www.cdc.gov/nchs/products/databriefs/db294.htm>



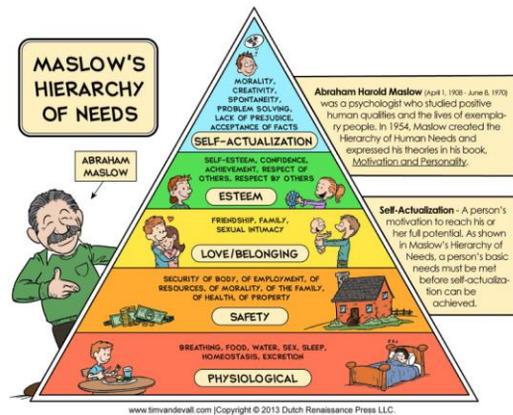


Substance Use Among Women

- More Complex
- Correlated to Co-Morbid Conditions (Mental Health)
- Lower Socio-Economic Status
- Intimate Partner Violence
- History of Trauma

Trauma-Informed Care

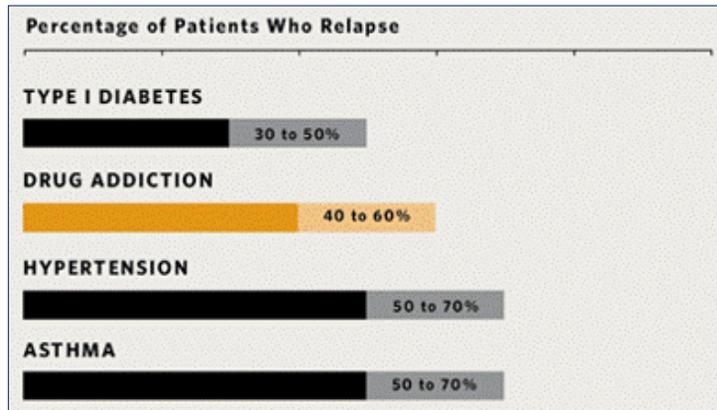
- Non-judgmental
- Confidential
- Access
- Safe



Trauma & Substance Use

- Pregnancy
 - Mothering
 - Substance use
 - Stigma
-
- Reduce Access to Healthcare for Women

Percent of Patients who Relapse



Mothers in Treatment

- Most women:
 - Feel a strong connection with their children;
 - Want to be good mothers; and
 - Want to regain custody of their children.



Priority Populations

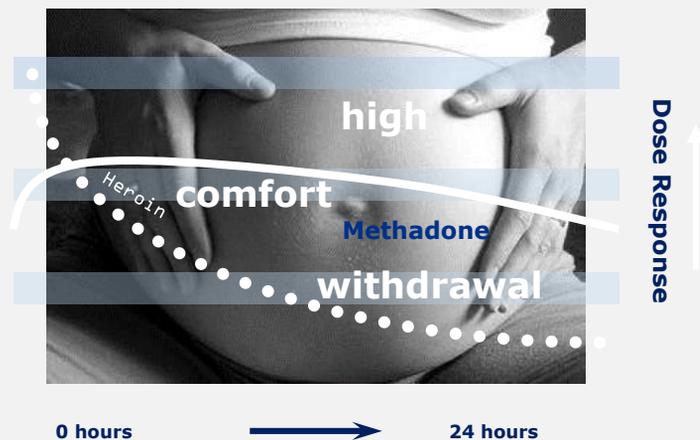
- Individual are admitted to treatment in the following order:
 1. Pregnant, Injecting Individuals
 2. Pregnant Individual
 3. Injecting Individual
 4. Individual referred by the Department of Family and Protective Services



Levels of Care

- Screening: OSAR
- Intervention: PPI/PADRE
- Youth Residential and Outpatient
- Adult Residential Detoxification
- Adult Intensive/Support Residential
- Adult Outpatient
- Medication Assisted Treatment

Methadone: The Basics



What is NAS?

Neonatal abstinence syndrome (NAS) is when newborns show certain physical signs of substance or medication withdrawals.

Neurological	Gastrointestinal	Autonomic
<ul style="list-style-type: none"> • Irritability • Increased wakefulness • High-pitched cry • Tremor • Increased muscle tone • Hyperactive deep tendon reflexes • Frequent yawning • Sneezing • Seizures 	<ul style="list-style-type: none"> • Vomiting • Diarrhea • Dehydration • Poor weight gain • Poor feeding • Uncoordinated and constant sucking 	<ul style="list-style-type: none"> • Diaphoresis (profuse sweating) • Nasal stuffiness • Fever • Mottling • Temperature instability • Piloerection (goose bumps) • Mild elevations in respiratory rate and blood pressure



TEXAS
Health and Human
Services

Thank you

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Substance Abuse and Child Protective Services



Substance Use CPS Cases by Stage of Service Investigations

2018	001	6,684	1,503	22.5%
2018	002	5,633	1,284	22.8%
2018	003	8	0	0.0%
2018	003E	24,753	4,045	16.3%
2018	003W	23,093	4,217	18.3%
2018	004	8,316	1,810	21.8%
2018	005	5,442	936	17.2%
2018	006A	22,370	2,713	12.1%
2018	006B	11,331	1,697	15.0%
2018	007	23,177	3,631	15.7%
2018	008	21,236	3,845	18.1%
2018	009	4,669	673	14.4%
2018	010	4,723	553	11.7%
2018	011	14,916	2,760	18.5%
2018	Other	24	7	29.2%
2018	State Total	176,375	29,674	16.8%



Substance Use CPS Cases by Stage of Service Family Based Safety Services

2018	001	765	466	60.9%
2018	002	779	472	60.6%
2018	003E	2,068	1,145	55.4%
2018	003W	2,355	1,444	61.3%
2018	004	612	434	70.9%
2018	005	253	175	69.2%
2018	006A	1,492	930	62.3%
2018	006B	1,233	744	60.3%
2018	007	1,237	804	65.0%
2018	008	2,641	1,675	63.4%
2018	009	353	205	58.1%
2018	010	336	215	64.0%
2018	011	2,127	1,217	57.2%
2018	State Total	16,251	9,926	61.1%

Substance Use CPS Cases by Stage of Service Conservatorship

2018	001	876	647	73.9%
2018	002	834	636	76.3%
2018	003	20	10	50.0%
2018	003E	2,375	1,670	70.3%
2018	003W	1,260	838	66.5%
2018	004	1,251	849	67.9%
2018	005	726	561	77.3%
2018	006A	1,331	851	63.9%
2018	006B	848	569	67.1%
2018	007	3,046	1,992	65.4%
2018	008	2,213	1,434	64.8%
2018	009	593	378	63.7%
2018	010	203	138	68.0%
2018	011	1,357	829	61.1%
2018	Other	141	71	50.4%
2018	State Total	17,074	11,473	67.2%

Determining Family Readiness for Reunification

- Environmental readiness
- Clean
- Decontaminated
- Child proofed



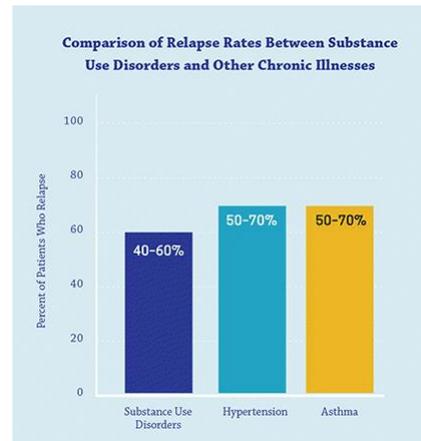
Determining Family Readiness for Reunification

- Emotional Readiness
 - Can they describe their support network
 - Can they articulate how things will be different
 - Have they created a relapse prevention plan



Relapse

- Relapse is simply the return to use after a period of discontinued use
- In substance use, relapse rates are similar to other chronic diseases



Relapse Prevention Planning

- Plans created by the parent in collaboration with family and supports.
 - Meant to establish a clear plan with designated roles for the different support systems intended to aid the family
 - Should be parent driven plans
 - Should be individualized
 - Should be realistic

Drug Testing and Visitation

- Visitation should not be contingent on a negative drug test or series of negative drug tests
 - Drug tests confirm that a drug was used
 - Drug tests results to not reflect the current state of the parent at the time of the visit
 - Assessment of the parent's ability to be safely and appropriately interact with the child should be made in real time by the person supervising the visit.



Thank you

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Drug Testing Issues



Purpose

- Investigation purposes
 - Services or close the case
- Alleviate the need for removal
 - FBSS
 - Court Ordered Services (COS)
- Continuing danger to the physical health or safety of the child
- Endangerment to the child's physical or emotional well-being
- Family Plan of Service
 - Comply with a court order
- Progress
 - Levels



Types of Drug Tests

- Hair Strand
 - Back 90 days
 - Every 3 to 4 months, historical use
 - Head vs. body



Types, cont.

- Urinalysis (UA)
 - Back 3 days to a week, marijuana a little longer
 - Every 4 to 6 weeks
- Oral Swab
 - Back 24-36 hours
 - Used in outlying counties
 - Sent by worker to lab via Fed Ex while parent watches them seal it
 - Reliability



Types, cont.

- Instant
 - Method
 - Back 24-36 hours
 - Not admissible
 - Investigative tool
- Nail Clippings
 - Expensive
 - Rare because special approval needed



To Screen or Not to Screen

- What reasons might a parent not want a drug screen?

Admissibility

- Ideally you would have 2 to 3 witnesses to get the hair strand results admitted:
 - A chain of custody witness;
 - An expert to establish the theory's validity (reliability) and proper technique to implement the theory (test protocol); and
 - An expert to testify to the test results (usually the technician who tested the sample).



Admissibility, cont.

- However, if you have the Supervisor/Director of the lab, you will only need two witnesses.
- Supervisor/Director can testify from business records (litigation packet) as to conduct and results of the test and that the test performed was standard and accepted for that substance.
- Testimony from the person who administered the test is not enough to prove up the drug test result without the expert.

Admissibility, cont.

- Drug test results are not necessarily reversible if there is other evidence of the parents' drug use, such as their admissions. K.C.P., 142. S.W.3d 574 (Tex. App. - Texarkana 2004).
- K.C.P. also discusses that laying this foundation is pertinent in termination because of the higher burden of clear and convincing evidence. It appears that it might not be the same in Adversary hearings because of the low burden of proof.
- A.T., No. 02-04-00355-CV, 2006 WL 563565 (Tex. App. – Ft. Worth Mar. 9, 2006) as to hospital records.



Opposing Expert to CPS

- Why would you want one?
 - Reliability
 - Exposure: use vs. contact
 - Inconsistencies with different types of tests
 - Contamination
 - Time frame covered by test
 - Hair growth rates
 - Hair pigmentation and type
 - Levels: What do they mean and what do they tell us?



Objections

- Chain of custody (authentication)
- Hearsay
- Lack of Proper Foundation
- Possible Prejudice Outweighs Probative Value



I'll show you mine if you show me yours

- Do you agree to let in the positive drug screens for the negative ones without objection?
- The “lone positive in a sea of negatives” argument.



Thank you

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