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The Opioid Crisis: The Battle for Overdose Prevention Sites in Illinois

Haley Arnieri

I. Introduction

After sixteen years of sobriety, actor Dax Shepard relapsed with prescription painkillers.¹ The *Parenthood* star had been taking prescribed Vicodin since 2012, with the knowledge of family and sponsors, to deal with pain issues from a motorcycle accident.² The prescribed drug use only recently became a problem in 2020 due to additional injuries to his hand and shoulder.³ Until this point, Shepard had never bought non-prescribed opioids, but when his prescription drugs were insufficient to fill his cravings, he started purchasing pills for the first time.⁴ Shepard knew he had an opioid problem when he began lying to everyone around him. Eventually, he overcame his opioid dependence and feelings of fear and embarrassment with the help of his loved ones.⁵ While Shepard is one of the lucky ones who was able to fight his opioid addiction, many others are not so fortunate.

Since 1999, more than 841,000 people have died in the United States from a drug overdose.⁶ In 2018, two out of three drug overdose deaths were from opioids.⁷ Like the rest of the country, Illinois was not able to escape this public health crisis. Recently, COVID-19 has exacerbated this fatal epidemic.⁸ By July 2020, the number of people who died in Cook County

¹ Karu F. Daniels, *After 16 years of sobriety, Dax Shepard reveals relapse, opens up about his recent battle with opioid addiction*, CHI. TRIB. (Sept. 25, 2020, 12:56 PM), <https://www.chicagotribune.com/entertainment/ny-dax-shephard-relapse-vicodin-addiction-armchair-expert-podcast-20200925-dafdqyhkurddxjovtne55lzzrq-story.html>.

² *Dax Shepard Opens Up About Addiction*, DECISION POINT CTR. (Oct. 1, 2020), <https://www.decisionpointcenter.com/blog/2020/october/dax-shepard-opens-up-about-addiction/>.

³ Daniels, *supra* note 1.

⁴ DECISION POINT CTR., *supra* note 2.

⁵ *Id.*

⁶ *The Drug Overdose Epidemic: Behind the Numbers*, CTR. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/drugoverdose/data/index.html> (last updated Mar. 25, 2021).

⁷ *Id.*

⁸ Melissa Sanchez & Duaa Eldeib, *Overdose Deaths Have Skyrocketed in Chicago, and the Coronavirus Pandemic May Be Making It Worse*, PROPUBLICA (May 30, 2020, 5:00 AM), <https://www.propublica.org/article/overdose-deaths-have-skyrocketed-in-chicago-and-the-coronavirus-pandemic-may-be-making-it-worse>.

from opioids had doubled from the prior year.⁹ Opioid overdoses are the leading cause of injury-related death in the United States, but these deaths are preventable with the right resources.¹⁰ Fighting the opioid crisis in Illinois is not an easy task. As opioid overdose deaths continue to increase, policymakers will be pressured to devise and implement innovative solutions to combat this urgent public health crisis. Supervised injection sites may be one of these innovative solutions.

Part II of this Article briefly discusses the history of the opioid crisis and the leading factors contributing to the crisis. Part III introduces supervised injection sites as an innovative solution to the opioid crisis, while examining the benefits and efficacy of such sites. This part will also touch on the current state of supervised injection sites in the United States. Part IV details Illinois' efforts to address the opioid crisis, including its State of Illinois Opioid Action Plan and its Overdose Prevention Site Community Engagement Project Report. Part V addresses the legal status of supervised injection sites in the United States. This part will address the federal "crack house" statute in conjunction with the Third Circuit's recent decision, finding that supervised injection sites violate federal law. Part VI will strive to analyze the best path forward for establishing sites in Illinois and nationwide.

II. History of the Opioid Crisis

Opioid overdose deaths have been steadily increasing over the past thirty years, with a record number of almost 50,000 opioid-related deaths in 2019, a significant increase from

⁹ Duaa Eldeib & Melissa Sanchez, *Opioid Overdoses Keep Surging in Chicago, Killing Black People on the West Side*, PROPUBLICA (July 14, 2020, 6:11 PM), <https://www.propublica.org/article/opioid-overdoses-keep-surging-in-chicago-killing-black-people-on-the-west-side>.

¹⁰ Colleen L. Barry et al., *Language Matters in Combatting the Opioid Epidemic: Safe Consumption Sites Versus Overdose Prevention Sites*, 108 AM. J. PUB. HEALTH 1157, 1157 (2018).

overdose deaths in 2017 and 2018.¹¹ While the final numbers from 2020 have not yet been published, it is expected to be another record year.

Opioids are a class of drug naturally found in the opium poppy plant that reduce pain as well as produce feelings of relaxation and euphoria.¹² When people take high doses of opioids for an extended period, they risk developing opioid use disorder (OUD), a cyclical chronic disease.¹³ Opioids include heroin and prescription pain relievers such as oxycodone, hydrocodone, morphine, and synthetic fentanyl.¹⁴

In the mid-1990s, pharmaceutical companies researched and developed opioid drugs due to the allegations that the medical field was systemically undertreating pain.¹⁵ OxyContin, a morphine-like drug used to treat late-stage cancer pain and eventually non-cancer pain, was approved in 1995 by the Food and Drug Administration (FDA) and was presented to the market in January 1996.¹⁶ The misguided acceptance of opioid treatment appears to have originated from a one-paragraph letter published in the 1980 edition of the *New England Journal of Medicine*.¹⁷ This letter concluded from a single study of almost 12,000 hospitalized patients that, "despite widespread use of narcotic drugs in hospitals, the development of addiction is rare in medical patients with no history of addiction."¹⁸ Consequently, this letter, which provided no statistical evidence for its conclusion, was used in over 439 medical papers to support the idea

¹¹ *Overdose Death Rates*, NAT'L INST. ON DRUG ABUSE, <https://www.drugabuse.gov/drug-topics/trends-statistics/overdose-death-rates> (last updated Jan. 29, 2021).

¹² SUE PICKETT ET AL., ADVOCATES FOR HUMAN POTENTIAL, OVERDOSE PREVENTION SITE COMMUNITY ENGAGEMENT PROJECT: JUNE 2020 REPORT, 3 (2020), <https://www.dhs.state.il.us/OneNetLibrary/27896/documents/OPS.pdf>.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Nicholas A. Battista et al., *Modeling the Prescription Opioid Epidemic*, 81 BULL. MATHEMATICAL BIOLOGY, 2258, 2258-59 (2019).

¹⁶ Abby E. Alpert et al., *Origins of the Opioid Crisis and Its Enduring Impacts 5* (Nat'l Bureau of Econ. Research, Working Paper No. 26500, 2019), https://www.nber.org/system/files/working_papers/w26500/w26500.pdf.

¹⁷ Jack Hubbard et al., *Opioid Abuse: The Fall of a Prince*, 21 QUINNIPIAC HEALTH L.J. 159, 167 (2018).

¹⁸ *Id.*

that opioids could be prescribed without fear of addiction.¹⁹ This idea that opioids had a low abuse potential would later be proved false.²⁰

Purdue Pharma, the manufacturer of OxyContin, used this letter in its expansive marketing campaign to further promote the safety of opioid use.²¹ The initial marketing campaign claimed the highly effective OxyContin had low abuse potential and was safer than other opioid drugs.²² Some marketing materials failed to mention anything about the potential for addiction.²³ Due to these misleading reassurances from OxyContin's manufacturer, health care providers' fears eased, resulting in more opioid prescriptions than ever before.²⁴ This marked the beginning of the modern-day opioid crisis.²⁵ In the time frame between 1990 and 2008, overdose death rates, opioid pharmaceuticals sales, and addiction treatment admissions related to opioids all dramatically increased.²⁶

In addition to the marketing efforts of Purdue Pharma, scholars have identified two other factors that have contributed to the opioid crisis.²⁷ In 2001, the Joint Commission classified pain as the "fifth vital sign" in its newest edition of Pain Management Standards.²⁸ This new classification mandated physicians to ask every patient about their pain level, which led to a dramatic increase in the number of opioid prescriptions written as well as opioid-related overdoses.²⁹ The second factor that contributed to the opioid crisis was the government's recent

¹⁹ *Id.*

²⁰ *Id.* at 168.

²¹ *Id.* at 167.

²² Alpert et al., *supra* note 16, at 6.

²³ *Id.*

²⁴ *Id.*

²⁵ Hubbard et al., *supra* note 17, at 168.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.* at 168; Kristina Fiore, *Opioid Crisis: Scrap Pain as 5th Vital Sign?*, MEDPAGE TODAY (Apr. 13, 2016), <https://www.medpagetoday.com/publichealthpolicy/publichealth/57336>. The other vital signs are heart rate, blood pressure, respiratory rate, and temperature.

²⁹ Hubbard et al., *supra* note 17, at 168-69.

shift towards patient-centric care.³⁰ In an innocent attempt to improve patient care, the government created a patient satisfaction survey which had an unintended impact on the opioid crisis.³¹ At this point, patients had come to expect opioid prescriptions for any level of pain, and those physicians who did not live up to that expectation achieved poor survey results.³² Consequently, because these survey ratings were correlated to the salary or retention, physicians often issued opioid prescriptions to achieve better ratings, even when it was unnecessary.³³

These factors paved the way for three waves of opioid overdose deaths that define the opioid epidemic.³⁴ The first wave was from 1997 to 2002, when the United States saw the prescription rate of morphine increase by 73%, the prescription rate of fentanyl increase by 226%, and the prescription rate of oxycodone increase by 402%.³⁵ In 2010, the illicit use of heroin caused the second wave of opioid-related overdose deaths.³⁶ After two decades of increased opioid prescriptions, the original formulation of OxyContin was removed from the market, leaving many patients addicted and nowhere to turn other than the streets.³⁷ Many of those addicted to prescription opioids turned to illicit heroin because the drug was more readily available, less expensive, and offered a more potent high; thus, leading to a significant increase in heroin overdose deaths.³⁸ The third wave began in 2013, when illicitly manufactured fentanyl, a synthetic opioid, became more widely available on the streets. Fentanyl is a synthetic opioid

³⁰ See *id.* at 169.

³¹ *Id.*

³² Aleksandra Zgierska et al., *Patient Satisfaction, Prescription Drug Abuse, and Potential Unintended Consequences*, 307 J. AM. MED. ASS'N 1377, 1378 (2012).

³³ *Id.*

³⁴ *Understanding the Epidemic*, CTR. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/drugoverdose/epidemic/index.html> (last updated Mar. 17, 2021); *When Did the Opioid Crisis Start?*, BAART PROGRAMS (Nov. 2, 2020), <https://baartprograms.com/when-did-the-opioid-crisis-start/>.

³⁵ Art Van Zee, *The Promotion and Marketing of OxyContin: Commercial Triumph, Public Health Tragedy*, 99 AM. J. PUB. HEALTH 221, 224 (2009).

³⁶ Alpert et al., *supra* note 16, at 4.

³⁷ *Id.*

³⁸ *When Did the Opioid Crisis Start?*, *supra* note 34.

that is fifty to a hundred times more potent than morphine and has been the main driver for the most recent increase in opioid overdose deaths.³⁹ These drug-specific trends indicate that the introduction of OxyContin had long-term effects on the opioid crisis in the United States.⁴⁰

Opioid addiction has become a global epidemic and a domestic national health crisis⁴¹ requiring creative solutions. The federal government has taken measures, albeit ineffective, to address the opioid crisis, such as enacting drug abuse legislation, creating regulatory agencies, and increasing law enforcement efforts.⁴² Despite all of the endeavors from the federal government to reschedule opioids and employ the assistance of law enforcement and public health agencies to target and prosecute offenders,⁴³ opioid overdose deaths have continued to rise. With morbidity and mortality rates at unprecedented levels, it is time that policymakers and health care workers turn to innovative solutions.

III. Supervised Injection Sites

Opioid users who inject opioids are particularly susceptible to overdose and death, as opposed to other methods of consumption.⁴⁴ The most popular method of heroin consumption is injection by a hypodermic needle. This type of abuse provides the fastest onset of intense pleasure because the drug immediately integrates with the bloodstream and travels to the brain

³⁹ *Fentanyl*, CTR. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/drugoverdose/opioids/fentanyl.html> (last updated Feb. 16, 2021).

⁴⁰ Alpert et al., *supra* note 16, at 26.

⁴¹ *What is the U.S. Opioid Epidemic?*, U.S. DEP'T OF HEALTH AND HUMAN SERVS., <https://www.hhs.gov/opioids/about-the-epidemic/index.html> (last updated Feb. 19, 2021).

⁴² See Robert Parker Tricarico, *A Nation in the Throes of Addiction: Why A National Prescription Drug Monitoring Program Is Needed Before It Is Too Late*, 37 WHITTIER L. REV. 117, 125 (2016).

⁴³ *See Id.*

⁴⁴ RICHARD J. BONNIE ET AL., PAIN MANAGEMENT AND THE OPIOID EPIDEMIC: BALANCING SOCIETAL AND INDIVIDUAL BENEFITS AND RISKS OF PRESCRIPTION OPIOID USE 191-192 (2017) (“It is well substantiated that drugs used by . . . injection, in particular, enter the bloodstream and hasten the opioid’s crossing of the blood–brain barrier, generating a faster onset of action, which in turn is associated with a greater risk of overdose and of developing OUD.”).

without requiring the drug to first be broken down by digestion.⁴⁵ Not only are people who inject drugs highly susceptible to overdose, but they are also at high risk of acquiring blood-borne illnesses. Between 2004 and 2014, there was a 133% increase in the spread of Hepatitis C infections.⁴⁶ The Centers for Disease Control and Prevention (CDC) has found that the recent sharp increase in cases of Hepatitis C is associated with increases in opioid injection.⁴⁷ The innovative solution to this injection opioid crisis is supervised injection sites (also called “safer injection facilities,” “safe consumption sites,” or “overdose prevention sites”).

Supervised injection sites are legally sanctioned locations that provide a sanitary place for people to inject pre-obtained drugs under the supervision of medical professionals who can administer the overdose reversal drug, Naloxone.⁴⁸ These sites aim to increase the safety of people who inject opioids and minimize the negative social consequences of injecting drugs in public spaces.⁴⁹ These sites can play a vital role in a public health approach to drug policy as they have been shown to reduce overdose deaths, HIV transmission, and Hepatitis C infections.⁵⁰ These supervised injection sites can provide a non-judgmental environment for safeguarded injecting, appropriate guidance and equipment to reduce harm, proper disposal of used needles, and onsite or connections to medical and social services.⁵¹ The most important function of these sites is the ability to connect drug users with abuse treatment and rehabilitation services.⁵²

⁴⁵ See Anil Aggrawal, *Narcotic Drugs: The King of Narcotics* (May 1995), <https://www.opioids.com/narcotic-drugs/chapter-3.html>.

⁴⁶ Press Release, Ctrs. for Disease Control & Prevention, Increase in Hepatitis C Infections Linked to Worsening Opioid Crisis (Dec. 21, 2017), <https://www.cdc.gov/nchhstp/newsroom/2017/hepatitis-c-and-opioid-injection-press-release.html>.

⁴⁷ *Id.*

⁴⁸ Alex H. Kral & Peter J. Davidson, *Addressing the Nation's Opioid Epidemic: Lessons from an Unsanctioned Supervised Injection Site in the U.S.*, 53 AM. J. PREVENTIVE MED. 919, 919 (2017).

⁴⁹ *Id.*

⁵⁰ Barry et al., *supra* note 10.

⁵¹ Kral & Davidson, *supra* note 48.

⁵² Kristen Maye & Kassandra Frederique, *Supervised Injection Facilities Are Safe Houses, Not Crack Houses*, HUFFPOST (June 21, 2016, 12:57 PM), https://www.huffpost.com/entry/supervised-injection-facilities_b_10593978.

Supervised injection sites have already been implemented with great success in Canada and Western Europe, with approximately 120 facilities operating in ten countries worldwide.⁵³ Unfortunately, supervised injection sites have not been implemented in the United States due in part to low public support.⁵⁴ But, as can be seen from abroad, once implemented, these sites have gained high community support.⁵⁵ In neighborhoods with these sites, there have been improvements in community health and safety, including decreased rates of public injection and improperly discarded needles, drug-related crime and violence, and the need for ambulance services for opioid overdoses.⁵⁶ Recently, however, based on this evidentiary support, community activists have started to solicit support for implementing these supervised injection sites in the United States.

In 2014, a social service agency engaged in civil disobedience and activism opened an unsanctioned supervised injection site in an undisclosed urban area of the United States.⁵⁷ This unsanctioned site collected qualitative data from an anonymous survey to evaluate the impact of the site, and the resulting data was subsequently reviewed and approved by the Institutional Review Board of the University of California, San Diego.⁵⁸ The site, which is invitation only, is open five days per week for four to six hours a day.⁵⁹ Between 2014 and 2019, a total of 10,514 injections were administered at the site, with only 33 opioid-related overdoses, which were all successfully reversed by Naloxone.⁶⁰ In the five years of operation, no fatalities occurred.⁶¹

⁵³ *Supervised Consumption Sites*, DRUG POL'Y ALLIANCE, <https://drugpolicy.org/issues/supervised-consumption-services> (last visited Oct. 24, 2021).

⁵⁴ Barry et al., *supra* note 10.

⁵⁵ Kral & Davidson, *supra* note 48.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.* at 919-20.

⁵⁹ *Id.* at 920.

⁶⁰ Alex H. Kral et al., *Evaluation of an Unsanctioned Safe Consumption Site in the United States*, 383 NEW ENG. J. MED. 589, 589 (2020).

⁶¹ *Id.*

While there are no legally sanctioned supervised injection sites in the United States at this time, the support for them is growing. Leaders from over ten states have begun to discuss and support the implementation of supervised injection sites as an innovative intervention to this public health crisis.⁶²

IV. Illinois' Efforts to Address the Opioid Crisis

A. State of Illinois Opioid Action Plan

The opioid crisis has hit Illinois, especially the city of Chicago, very hard. Over the past decade, opioid-related deaths have increased drastically in Chicago.⁶³ In 2017, almost 800 Chicagoans died from opioid overdoses.⁶⁴ The opioid overdose death rate is over one and a half times higher in Chicago than in the rest of Illinois.⁶⁵ Chicago's opioid overdose death rates from fentanyl and heroin are over five and six times higher than the opioid overdose death rate from prescription opioids, respectively.⁶⁶ In 2017, as a collective call-to-action to save lives, the State of Illinois developed the Illinois Opioid Action Plan (SOAP), establishing the Governor's Opioid Prevention and Intervention Task Force (Task Force), pursuant to Executive Order 2017-05.⁶⁷

Based on the current rate of opioid-related deaths, Illinois projected that the opioid epidemic would take the lives of more than 2,700 Illinoisians in 2020.⁶⁸ To halt this escalation,

⁶² See *United States v. Safehouse*, SAFEHOUSE, <https://www.safehousephilly.org/us-v-safehouse> (last visited Oct. 24, 2021).

⁶³ Tamara Rushovich, *Opioid Overdose: Understanding the Current Epidemic in Chicago*, CHI. DEP'T OF PUB. HEALTH, <https://www.chicagohan.org/documents/14171/257778/TRushovich+Opioid+Overdose+Understanding+the+current+epidemic+in+Chicago.pdf/9d88e284-1bf5-4afd-a94d-1211ffef07ab> (last visited Oct. 24, 2021).

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ ILL. DEP'T OF PUB. HEALTH, STATE OF ILLINOIS COMPREHENSIVE OPIOID DATA REPORT, 3 (2017), https://news.wttw.com/sites/default/files/article/file-attachments/publicationsdoil-opioid-data-report_0.pdf.

⁶⁸ BRUCE RAUNER, ILL. DEP'T OF PUB. HEALTH, STATE OF ILLINOIS OPIOID ACTION PLAN 3 (2017), <https://dph.illinois.gov/content/dam/soi/en/web/idph/files/publications/illinois-opioid-action-plan-sept-6-2017-final.pdf>.

the SOAP set out to reduce this number of projected opioid-related deaths by one-third.⁶⁹ The SOAP's three primary efforts focused on preventing the further spread of the opioid crisis, providing evidence-based treatment and recovery services to Illinois residents with OUD, and averting overdose deaths.⁷⁰ These three pillars encompassed six priorities, which were addressed through nine evidence-based strategies.⁷¹ The six priorities included: safer prescribing and dispensing; education and stigma reduction; monitoring and communication; access to care; supporting justice-involved populations; and rescue.⁷² The nine evidence-based strategies proposed to execute these priorities were: increase Prescription Monitoring Program (PMP) use; reduce high-risk opioid prescribing; increase the accessibility of information and resources; increase the impact of prevention programming; strengthen data collection, analysis, and sharing; increase access to care; increase diversion and deflection program capacity; increase naloxone training and access; and decrease overdose deaths after release from institutions.⁷³ The Task Force collaborated with the Illinois Opioid Crisis Response Advisory Council (Council) to formulate a detailed implementation plan to execute these strategies, which were implemented in late 2017.⁷⁴

Since the release of SOAP, the government effectuated multiple legislative reforms aimed at addressing the opioid crisis in Illinois. Effective January 1, 2018, Public Act 100-0564 promotes safer opioid prescribing and dispensing by requiring prescribers with an Illinois controlled substances license to register with the Prescription Monitoring Program (PMP).⁷⁵ The

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² ILL. DEP'T OF PUB. HEALTH, STATE OF ILLINOIS OPIOID ACTION PLAN IMPLEMENTATION REPORT 4 (2020), https://www.dhs.state.il.us/OneNetLibrary/27896/documents/SOAP_Implementation_Report_October_2020.pdf.

⁷³ *Id.*

⁷⁴ *Id.* at 3.

⁷⁵ 720 ILL. COMP. STAT. 570/314.5(C-5) (2019); 720 ILL. COMP. STAT. 570/316(F) (2019).

PMP is an electronic database that collects daily information on controlled substance prescriptions in Illinois and enhances prescribers' and dispensers' capacity to review a patient's prescription history in order to give proper care.⁷⁶ Later in 2018, Public Act 100-0861 was passed, allowing greater access to the PMP by allowing providers to designate access on their behalf.⁷⁷ This was implemented to allow prescribers to focus their time on patient care rather than on administrative issues.⁷⁸ In January 2019, Public Act 100-1106 was enacted, which requires three hours of continuing education on safe opioid-prescribing practices for controlled substance licensed prescribers before they can renew their prescription license.⁷⁹ In August 2019, the Overdose Prevention and Harm Reduction Act went into effect, which authorized opening needle and hypodermic syringe access programs in Illinois.⁸⁰ Previously, needle exchange programs could not be established in Illinois unless they were part of lawful research, teaching, or chemical analysis.⁸¹ Now there are seven needle and syringe access programs statewide.⁸²

Despite these accomplishments, the Task Force did not meet its overall goal to reduce opioid deaths by 33% in three years.⁸³ Illinois saw some progress in 2018, with the Illinois Department of Public Health (IDPH) announcing the first decrease (1.6%) in opioid-related deaths since 2013.⁸⁴ Unfortunately, IDPH's 2019 and 2020 provisional mortality data show a 3% increase in opioid-related deaths.⁸⁵ Accordingly, in 2020 the government reevaluated the 2017

⁷⁶ *Frequently Asked Questions: Registering and Accessing the PMP*, ILL. ST. MED. SOC'Y, <https://www.isms.org/pmpquestions/> (last visited Oct. 24, 2021).

⁷⁷ 720 ILL. COMP. STAT. 570/316(g) (2019).

⁷⁸ ILL. DEP'T OF PUB. HEALTH, *supra* note 72, at 10.

⁷⁹ 720 ILL. COMP. STAT. 570/315.5 (2019).

⁸⁰ 410 ILL. COMP. STAT. 710/5(a) (2019).

⁸¹ *New Illinois Laws: Health and Justice Highlights*, TASC (Oct. 24, 2019), <https://www.tasc.org/tascweb/article.aspx?ID=372>.

⁸² *See SSP Locations*, NASEN, <https://nasen.org/map/?go=process> (last visited Oct. 24, 2021).

⁸³ ILL. DEP'T OF PUB. HEALTH, *supra* note 72, at 45.

⁸⁴ *Id.*

⁸⁵ *Id.*

SOAP, taking into account new challenges Illinois faces, such as the influx of fentanyl, the impact of COVID-19, and the growing racial and social disparities of the crisis.⁸⁶ Executive Order 2020-02 put strategies into place to build on Illinois' progress and focus on new areas, such as social equity and harm reduction.⁸⁷ The Order also established the Governor's Overdose Prevention and Recovery Steering Committee to create new policies and programs with the help of the Opioid Crisis Response Advisory Council.⁸⁸

B. Overdose Prevention Site Community Engagement Project Report

Focusing on engaging highly impacted communities, Illinois has recently become amenable to the innovative solution of opening an overdose prevention site in Chicago. In January 2020, Illinois House Representative La Shawn K. Ford introduced House Bill 4071, creating the Safer Consumption Services Act, which would allow IDPH to approve overdose prevention sites in Illinois.⁸⁹ Later that year, the Illinois Department of Human Services (IDHS) announced the release of the Overdose Prevention Site (OPS) Community Engagement Project Report (Report) and next steps for opioid overdose prevention sites in Chicago's West Side neighborhood.⁹⁰ Chicago's West Side neighborhood has one of Illinois' highest fatal and non-fatal opioid overdose rates, totaling 2,408 and 2,568 fatal and non-fatal opioid overdoses in 2018 and 2019, respectively.⁹¹

Despite COVID-19, state officials were able to engage West Side community members in initial discussions about overdose prevention sites and gather valuable information on their

⁸⁶ *Id.*

⁸⁷ *Id.* at 46.

⁸⁸ *Id.*

⁸⁹ H.R. 4071, 101st Gen. Assemb., Reg. Sess. (Ill. 2020).

⁹⁰ See PICKETT ET AL., *supra* note 12.

⁹¹ *Id.* at 4.

perspectives of these sites.⁹² The OPS Community Engagement Project concentrated on communicating with West Side residents, business owners, faith leaders, healthcare and social service providers, law enforcement, elected officials, recovering opioid users, and current opioid users to gather their concerns about OPSs and to educate them on OPSs.⁹³ The Report found that 86% of the West Side community believe an OPS would be beneficial to their community.⁹⁴ The Report indicated that West Side community members thought that potential benefits of an OPS would include reduced overdose deaths, reduced public drug use and infectious disease risks, improved public safety, and increased access to substance use treatment and recovery support services.⁹⁵ The Report also found that 22% of survey participants had concerns about opening an OPS, some of their reasoning included the fear of increased drug selling, public drug use, and opioid overdoses.⁹⁶ The IDHS mentioned in the Report that the next steps in creating an OPS would start with creating a community advisory council to lead the planning activities.⁹⁷

After all of these efforts, it appeared as though there could be light at the end of the tunnel for the opioid crisis in Chicago. However, this newfound hope would not last long, as a new roadblock stood in the way: The United States Court of Appeals for the Third Circuit. The day after the Third Circuit ruled that overdose prevention sites would violate federal law, the Illinois 101st General Assembly adjourned *sine die*, leaving House bill 4071 dead.⁹⁸

Consequently, on January 13, 2021, House Representative La Shawn K. Ford, this time with

⁹² *See id.*

⁹³ *Id.* at 5.

⁹⁴ *Id.* at 9.

⁹⁵ *Id.* at 10.

⁹⁶ *Id.* at 12.

⁹⁷ *IDHS Announces Release of Community Engagement Project Report And Next Steps For Opioid Overdose Prevention Sites In Chicago*, RIVERBENDER (Aug. 24, 2020, 3:18 PM), <https://www.riverbender.com/articles/details/idhs-announces-release-of-community-engagement-project-report-and-next-steps-for-opioid-overdose-prevention-sites-in-chicago-43929.cfm>.

⁹⁸ H.R. 4071, 101st Gen. Assemb., Reg. Sess. (Ill. 2020).

House Representative Carol Ammons, reintroduced the Safer Consumption Services Act as House Bill 0110 in the 102nd General Assembly.⁹⁹

V. Current Federal Roadblocks

A. The Crack House Statute

The biggest obstacle for Illinois and other states to introduce supervised injection sites is the federal crack house statute.¹⁰⁰ Half a century ago, it became clear that the United States had a drug abuse problem.¹⁰¹ To tackle this national problem, Congress consolidated many drug laws into a single scheme: the Comprehensive Drug Abuse Prevention and Control Act of 1970.¹⁰² An important component of the Comprehensive Drug Abuse Prevention and Control Act is the Title II section, the Controlled Substances Act (Act), which broadly regulates illegal drugs. Initially, the Act did not address people who opened their property for drug activity. But then, in the 1980s came the height of the crack epidemic and the surging rise of “crack houses”¹⁰³ (houses or apartments where crack cocaine was manufactured, sold, or used).¹⁰⁴ Congress amended the Controlled Substances Act in 1986 to address this issue, adding 21 USC § 856: the federal “crack house” statute. This statute was designed to punish those who used their property to run drug businesses.¹⁰⁵

⁹⁹ H.R. 110, 102nd Gen. Assemb., Reg. Sess. (Ill. 2021).

¹⁰⁰ See 21 U.S.C. § 856.

¹⁰¹ Rob Griffiths, *Comprehensive Drug Abuse Prevention and Control Act & Cannabis*, MGA (Aug. 21, 2019), <https://masur.com/lawtalk/a-look-at-the-controlled-substances-act-and-cannabis/>.

¹⁰² *Id.*

¹⁰³ Jacob A. Epstein, *Molly and the Crack House Statute: Vulnerabilities of a Recuperating Music Industry*, 23 U. MIA. BUS. L. REV. 95, 103 (2014).

¹⁰⁴ *Crack house*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/crack%20house> (last visited Oct. 24, 2021).

¹⁰⁵ U.S. v. Verners, 53 F.3d 291, 296 (10th Cir. 1995).

Specifically, Section (a)(1) of this statute originally made it illegal to “knowingly open or maintain any place, for the purpose of manufacturing, distributing, or using any controlled substance.”¹⁰⁶ Section (a)(2) originally made it unlawful to:

manage or control any building, room, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, and knowingly and intentionally rent, lease, or make available for use, with or without compensation, the building, room, or enclosure for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance.¹⁰⁷

Congress later extended this crime in 2003, by further broadening the language to reach even temporary drug premises.¹⁰⁸ Section (a)(1) of the crack house statute now reads as: “it shall be unlawful to knowingly *open, lease, rent, use, or maintain any place, whether permanently or temporarily*, for the purpose of manufacturing, distributing, or using any controlled substance.”¹⁰⁹ Section (a)(2) now makes it illegal to

manage or control *any place, whether permanently or temporarily*, either as an owner, lessee, agent, employee, occupant, or mortgagee, and knowingly and intentionally rent, lease, profit from, or make available for use, with or without compensation, the place for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance.¹¹⁰

Although Congress passed this legislation to shut down crack houses specifically, the language of the statute reaches far beyond them.

B. United States v. Safehouse

The latest reach of the statute beyond crack houses concerns the opening of the first overdose prevention site in the United States. Between 2017 and 2019, 3,483 unintentional drug-

¹⁰⁶ 21 U.S.C. § 856(a)(1).

¹⁰⁷ 21 U.S.C. § 856(a)(2).

¹⁰⁸ See Epstein, *supra* note 103.

¹⁰⁹ 21 U.S.C. § 856(a)(1).

¹¹⁰ 21 U.S.C. § 856(a)(2).

related deaths occurred in Philadelphia.¹¹¹ Ready for a change, a nonprofit group in Philadelphia, Safehouse, sought to open a safe-injection site in 2019, but was quickly met with legal challenges from the federal government.¹¹² Not only would Safehouse provide a range of overdose prevention services, such as drug treatment and counseling, referrals to social services, and used syringe exchanges, but it would also provide consumption and observation rooms.¹¹³

The federal government sued Safehouse, seeking a declaratory judgment that Safehouse’s consumption room would violate §856(a)(2) of the crack house statute.¹¹⁴ The district court ruled in favor of Safehouse, holding that §856(a)(2) does not apply to Safehouse’s consumption room.¹¹⁵ The district court held that someone violates § 856(a)(2) only if *his* purpose is for others to manufacture, distribute, or use illegal drugs on the premises, finding that Safehouse’s purpose was to offer medical care, encourage drug treatment, and save lives.¹¹⁶ The federal government appealed to the Third Circuit of Appeals.

As *United States v. Safehouse* moved to the Third Circuit of Appeals, ten states, including Illinois, filed amicus briefs in support of Safehouse.¹¹⁷ Despite this overwhelming support, the Third Circuit ruled against Safehouse in a 2-1 decision.¹¹⁸ The case turned on the construction and application of § 856(a)(2)’s last phrase: “for the purpose of...”¹¹⁹ Safehouse argued that in order to violate § 856(a)(2), Safehouse itself would need to have the purpose that

¹¹¹ See DEP’T OF PUB. HEALTH CITY OF PHILA., OPIOID MISUSE AND OVERDOSE REPORT 2 (2020), <https://www.phila.gov/media/20200806162023/Substance-Abuse-Data-Report-08.06.20.pdf>.

¹¹² Press Release, U.S. Dep’t of Justice, Civil Lawsuit Filed to Seek Judicial Declaration that Drug Injection Site Is Illegal Under Federal Law (Feb. 6, 2019), <https://www.justice.gov/usao-edpa/pr/civil-lawsuit-filed-seek-judicial-declaration-drug-injection-site-illegal-under-federal>.

¹¹³ *United States v. Safehouse*, 985 F.3d 225, 231 (3d Cir. 2021).

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ Brief for the District of Columbia et al. as Amici Curiae Supporting Appellee, *United States v. Safehouse*, 985 F.3d 225 (3d Cir. 2021) (No. 20-1422).

¹¹⁸ *Safehouse*, 985 F.3d at 243.

¹¹⁹ *Id.* at 232.

its visitors use drugs. Conversely, the government argued that only the visitors need to have the purpose of using drugs. Therefore, Safehouse just needs to open its site to visitors it knows intentionally intend to use drugs there.¹²⁰ Engaging in a statutory construction analysis, the Court agreed with the latter position, finding that the text of the statute focuses on the third party's purpose, not Safehouse's.¹²¹ The Court held that in order to violate § 856(a)(2), "the government must show only that the defendant's tenant or visitor had a purpose to manufacture, distribute, or use drugs."¹²² The Court came to this logical conclusion by looking at how paragraphs (a)(1) and (a)(2) are written and structured.¹²³

The Court explained that paragraph (a)(1) bars a person from operating a place for *his own* purpose of illegal drug activity, requiring just one party.¹²⁴ The Court further explains that paragraph (a)(2)'s language, on the other hand, requires at least two actors: adding the third party,¹²⁵ holding that the third party is the one who must act for the purpose of illegal drug activity.¹²⁶ The Court explains that applying section (a)(2) as Safehouse does would make paragraph (a)(2) redundant of (a)(1).¹²⁷ The Court further notes that six other circuits, including the Seventh Circuit, agree with this reading of the sections.¹²⁸

When the Court applied the statute to Safehouse, it found that safe-injection sites violate section 856(a)(2) because its visitors will have a "significant purpose" of drug activity.¹²⁹ The Court notes that the statute requires the actor to have a significant purpose of drug activity, but it

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.* at 233.

¹²³ *Id.*

¹²⁴ *Id.* at 234.

¹²⁵ *Id.* at 235.

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.* at 236.

¹²⁹ *Id.* at 237.

need not be his sole purpose.¹³⁰ The Court explains that Safehouse’s main attraction is its consumption room; therefore, its visitors will have the significant purpose of drug activity. This is clear by its name: Safehouse calls it a “consumption room” or “safe-injection site.”¹³¹ The Third Circuit concludes that although the opioid crisis may call for innovative solutions, safe-injection sites violate federal law, and the Court cannot and will not rewrite the statute.¹³²

The dissent found that Safehouse cannot violate the statute because it does not have the requisite “purpose” per the statute’s language.¹³³ In the dissenting opinion, Circuit Judge Jane R. Roth found that the Majority’s statutory construction would create absurd results.¹³⁴ On February 26, 2021, Safehouse petitioned the Third Circuit of Appeals for a rehearing *en banc* based on this being a legal question of first impression and of substantial public importance.¹³⁵ As expected, amicus briefs were filed in support of a rehearing *en banc* by many states, including Illinois.¹³⁶ While this decision is not binding on Illinois courts, there could still be fallout from this opinion, making it much more difficult for Illinois to open its opioid overdose prevention site. Safehouse can appeal to the Supreme Court but will need to weigh the potential risk, as a decision affirming the appeals ruling would set a precedent for the entire country.

¹³⁰ *Id.*

¹³¹ *Id.* at 238.

¹³² *Id.*

¹³³ *United States v. Safehouse*, 985 F.3d 225, 243 (3d Cir. 2021) (Roth, J., dissenting).

¹³⁴ *Id.* at 247. (Roth, J., dissenting) In a parenetical Judge Roth noted, “as Safehouse correctly argues, under the Majority’s construction, parents could violate the statute by allowing their drug-addicted adult son to live and do drugs in their home even if their only purpose in doing so was to rescue him from an overdose. Conceding that its reading of section (a)(2) cannot be taken literally, the Majority concludes that a defendant cannot be guilty where drug use is merely “incidental” to the guest’s other purposes. Thus, the hypothetical parents would not violate the statute because their son’s drug use was incidental to his use of the home as a residence. By trying to assure us that the hypothetical parents would not violate the statute, the Majority implicitly acknowledges that such a result would be impermissibly absurd.”

¹³⁵ Petition for Rehearing En Banc, *United States v. Safehouse*, 985 F.3d 225 (3d Cir. 2021) (No. 20-1422).

¹³⁶ Brief for the District of Columbia et al. as Amici Curiae Supporting Rehearing En Banc, *United States v. Safehouse*, 985 F.3d 225 (3d Cir. 2021) (No. 20-1422).

VI. The Road Ahead for Supervised Injection Sites in Illinois

“Though the opioid crisis may call for innovative solutions, local innovations may not break federal law.”¹³⁷ Circuit Judge Bibas pointed out that this harsh truth can be especially tough to accept when one has the best intentions. Opening a supervised injection site in Illinois will be no easy task and will take time as there are multiple roadblocks in the way. But, even with the setback of the Third Circuit’s ruling, there are still multiple pathways ahead for Illinois.

As I see it, Illinois has three options: (1) delay opening its opioid overdose prevention site and wait to see if Safehouse appeals to the Supreme Court, hopefully obtaining a binding ruling that supervised injections sites are legal; (2) proceed with plans to open its opioid overdose prevention site, as the Third Circuit’s ruling is not binding in Illinois and hope the Biden administration does not prosecute; or (3) hold off on opening its opioid overdose prevention site and lobby policymakers in Congress to carve out an exception for supervised injections sites in the crack house statute. I find the last option to be the best choice as the goal of these sites is to use an innovative approach to combat and end this deadly epidemic.

Appealing to the United States Supreme Court is a risky move, although it can benefit everyone trying to open a supervised injection site. A ruling from the Supreme Court that opening supervised injection sites would not break federal law would create binding law across the country, an outcome that is wanted and needed. However, getting in front of the Supreme Court can be quite difficult. The Supreme Court receives more than 7,000 petitions requesting a writ of certiorari each year, and of those, approximately 100-150 cases are granted.¹³⁸ Also, time is of the essence, as more than 100 people die needlessly each day in the United States from

¹³⁷ *Safehouse*, 985 F.3d at 229.

¹³⁸ *Supreme Court Procedures*, UNITED STATES COURTS, <https://www.uscourts.gov/about-federal-courts/educational-resources/about-educational-outreach/activity-resources/supreme-1> (last visited Oct. 24, 2021).

drug-related overdoses.¹³⁹ Each day that goes by waiting for an appeal to be granted and a decision to be made, another 100 lives are lost. At this rate, the country can no longer afford to wait to implement critical life-saving harm reduction services. Unfortunately, it usually takes about a year or more for a Supreme Court case to advance from granting a petition to a decision.¹⁴⁰ Not to mention there is always the risk that the Supreme Court finds that supervised injections sites do violate federal law, thereby becoming the law of the land rather than persuasive authority in Illinois. Although this is an option Illinois can take, it is not a preferable one.

Another path for Illinois to take is to move forward with opening its overdose prevention site in hopes that the Department of Justice (DOJ) decides not to prosecute them. This could be a viable option as there has been a recent change to the presidential administration. The Trump administration led the legal action against Philadelphia's safe-injection site.¹⁴¹ But as of January 20, 2021¹⁴² the Biden administration is in power. The timing of the Third Circuit's decision is unfortunate and makes things for Illinois much more complicated. If the court waited eight days to rule, Biden's Department of Justice would have had the opportunity to withdraw the case, thus leaving the final ruling on the issue from the district court. Safehouse would have been able to proceed with opening the United States' first safe-injection site, and Illinois would not have this

¹³⁹ Janet Burns, *Court Blocks PA Safe Injection Again Despite Data, Citing Federal 'Crack House' Statute*, FORBES (Jan. 14, 2021, 12:13 PM), <https://www.forbes.com/sites/janetwburns/2021/01/14/pa-court-blocks-safehouse-again-despite-the-data-citing-federal-crackhouse-statute/?sh=2f594165580c>.

¹⁴⁰ Tillman J. Breckenridge, *Deciding When to Go Forward: Petitioning for Further Review After Losing a Federal Appeal*, IN-HOUSE DEFENSE QUARTERLY 21, 24 (2010).

¹⁴¹ Press Release, U.S. Dep't of Justice, Civil Lawsuit Filed to Seek Judicial Declaration that Drug Injection Site Is Illegal Under Federal Law (Feb. 6, 2019), <https://www.justice.gov/usao-edpa/pr/civil-lawsuit-filed-seek-judicial-declaration-drug-injection-site-illegal-under-federal>.

¹⁴² *Inaugural Address by President Joseph R. Biden, Jr.*, THE WHITE HOUSE (Jan. 20, 2021), <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/01/20/inaugural-address-by-president-joseph-r-biden-jr/>.

persuasive authority looming over its efforts. Although this was not the case, the Biden administration still can effect change.

When President Biden was a U.S. Senator, he was an outspoken proponent of the War on Drugs and co-sponsored the crack house statute.¹⁴³ Biden's championing of a broad application of the crack house statute engendered the challenges supervised injections sites are currently facing.¹⁴⁴ However, in recent years, President Biden has shifted his stance on addiction and substance abuse, seeming to take a much more progressive and evidence-based approach to drug policy.¹⁴⁵ But, President Biden has yet to publicly express his viewpoint on supervised injection sites.¹⁴⁶

As is customary when a presidential administration changes, U.S. Attorney William McSwain, who led the charge against Safehouse, resigned from his position as the chief federal law enforcement officer in the Eastern District of Pennsylvania on January 22, 2021.¹⁴⁷ McSwain's resignation opened the door for President Biden to appoint a U.S. Attorney who is a civil rights and criminal justice reform advocate.¹⁴⁸ Because prosecutors have discretion, this new U.S. Attorney can circumvent the Third Circuit's decision by not enforcing prosecution on anyone who opens a supervised injection site in Philadelphia. Similarly, the Biden administration

¹⁴³ Zachary Siegel, *How Joe Biden's Policies Made the Opioid Crisis Harder to Treat*, POLITICO MAG. (May 23, 2019), <https://www.politico.com/magazine/story/2019/05/23/joe-biden-2020-drug-war-policies-opioid-crisis-226933/>.

¹⁴⁴ Zachary Siegel, *Joe Biden's 'Crack House' Crusade*, THE APPEAL (Sept. 11, 2019), <https://theappeal.org/joe-biden-crack-house-statute/>.

¹⁴⁵ Nuala Bishari, *Will the Biden Administration help or hinder plans to open safe consumption sites in SF?*, THE S.F. EXAMINER (Jan. 14, 2021, 1:30 AM), <https://www.sfexaminer.com/news-columnists/will-the-biden-administration-help-or-hinder-plans-to-open-safe-consumption-sites-in-sf/>.

¹⁴⁶ Michael Tanenbaum, *Philly plan for opioid overdose prevention site shot down in federal court reversal*, PHILLY VOICE, (Jan. 12, 2021), <https://www.phillyvoice.com/philly-opioid-overdose-prevention-site-supervised-injection-federal-courts-overturms/>.

¹⁴⁷ Press Release, U.S. Dep't of Justice, United States Attorney McSwain Announces Resignation (Jan. 14, 2021), <https://www.justice.gov/usao-edpa/pr/united-states-attorney-mcswain-announces-resignation>.

¹⁴⁸ Abraham Gutman, *Bill McSwain's reign as U.S. attorney is ending. Can Biden undo the damage?*, PHILA. INQUIRER (Jan. 14, 2021), <https://www.inquirer.com/opinion/commentary/bill-mcswain-resign-us-attorney-pennsylvania-biden-20210114.html>.

can implement this strategy nationwide through the rest of his U.S. Attorney appointments. In 2013, the DOJ issued the Cole memo, which ordered prosecutors not to raid marijuana dispensaries in states that legalized marijuana.¹⁴⁹ Biden's DOJ can issue a similar nonenforcement memo for supervised injection sites. If Biden's DOJ were to issue this enforcement memo, Illinois could proceed with its plans without fear of being prosecuted.

But the risk remains that as the presidential administrations changes every four to eight years, so could their viewpoints on overdose prevention sites. If Illinois were to open a supervised injection site during the Biden administration, there is no guarantee that the next administration would not prosecute them under the crack house statute. Illinois may feel that is a risk worth taking and try its chances in court. However, as the Third Circuit noted, the Seventh Circuit agrees with its reading of the two paragraphs in § 856(a).¹⁵⁰ The Seventh Circuit can certainly come out a different way. The goal is to be able to operate supervised injection sites lawfully and permanently, and this pathway does not guarantee this goal.

The best path for Illinois to take to ensure that it can open its overdose prevention site lawfully and permanently is to lobby Congress to carve out an exception in the crack house statute. Courts are not arbiters of policy and cannot rewrite the statute. It is clear that supervised injection sites have a vast amount of support nationwide.¹⁵¹ Congress chose to fight the opioid crisis with a flat ban.¹⁵² What seemed rational at the time no longer holds water, and I believe many policymakers see that.

¹⁴⁹ Memorandum from James M. Cole, Deputy Att'y Gen., to all United States Attorneys (Aug. 29, 2013), <https://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf>.

¹⁵⁰ *United States v. Safehouse*, 985 F.3d 225, 236 (3d Cir. 2021).

¹⁵¹ See Brief for the District of Columbia et al. as Amici Curiae, *supra* note 117.

¹⁵² *Safehouse*, 985 F.3d at 243.

For the first time ever, Congress has weighed in on the issue of safe consumption sites. On December 27, 2020, Congress passed stimulus legislation that included direction to the Centers for Disease Control and Prevention (CDC) and the National Institute on Drug Abuse (NIDA) to examine and release a report on the potential public health impact of safe consumption sites.¹⁵³ The time is ripe for Illinois and the rest of the nation to lobby Congress to amend the crack house statute to exclude supervised injection sites.

In its efforts to appeal to Congress, Illinois and others should be aware of their language when promoting supervised injection sites. A growing literature suggests that strategic communication approaches can reduce the stigma toward opioid users and increase policy support for these types of innovative solutions.¹⁵⁴ Illinois should frame the solution as an “overdose prevention site” rather than a “safe consumption site” or “supervised injection site.” Framed this way, by emphasizing how many people are dying, there is potential to increase the number of people who view the policy as acceptable.¹⁵⁵ On the other hand, “safe consumption sites” highlight making an illegal activity safer for a highly stigmatized population, deterring potential supporters.¹⁵⁶ Amending the crack house statute to carve out an exception for supervised injection sites will provide Illinois with lawful authority to combat the opioid crisis with supervised injection sites. Taking this road will allow Illinois policymakers to pass the Safer Consumption Services Act (House Bill 0110) without fear of federal backlash. Illinois will not have to succumb to court rulings based on persuasive influence from sister circuits. Nor will Illinois live in fear that a new administration will prosecute it in later years.

¹⁵³ H.R. REP. No. 116-450, at 120-21 (2020).

¹⁵⁴ Barry et al., *supra* note 10, at 1159.

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

Conclusion

There is no consensus and no easy answer to what will end the opioid epidemic. But overdose prevention sites are a step in the right direction. Although supervised injection sites may not solve the opioid crisis on their own, the empirical evidence of the efficacy and benefits of these sites are strong.¹⁵⁷ Once Illinois has implemented its overdose prevention site, the state will begin to heal from some of the detrimental effects of the opioid crisis, most notably by decreasing the number of overdose deaths. It is time for the federal government to allow states to implement innovative solutions to this crisis without legal barriers in their way.

¹⁵⁷ See Kral & Davidson, *supra* note 48.