Society for the Anthropology of Work • Policing and Labor

Set Up for Failure: Law Enforcement Doing Public Health

Parsa Bastani

Published on: Dec 01, 2020

DOI: 10.21428/1d6be30e.b19b29f7

License: [Creative Commons Attribution 4.0 International License \(CC-BY 4.0\)](https://creativecommons.org/licenses/by/4.0/)

“If we are doing the same thing today as we were yesterday, we are doing something wrong.” Deputy Clark read this quote out loud to me from his drug court binder. The statement was originally made by a judge that Clark had heard speak about the value of drug courts, a specialized docket that sends people arrested for nonviolent drug-related crimes to court-supervised treatment programs rather than to jail or prison. Drug courts have been around for several decades in the United States. In response to calls for criminal justice system reform starting in the 1990s, the judicial system founded over three thousand drug courts nationwide. Since 2018, Deputy Clark has worked for a drug court in an Ohio county that was hit hard by the [opioid overdose epidemic](#), a public health crisis that remains the leading cause of U.S. injury-related deaths.

During Clark’s more than thirty years working in law enforcement, he witnessed the devastating [impact of the War on Drugs](#). Intensified in the 1980s under President Ronald Reagan, the War on Drugs is an ongoing law enforcement campaign that has ensnared millions of Americans, especially Black and Latinx men, in the criminal justice system for drug possession charges. As a Black officer with deep resentment toward the War on Drugs, Deputy Clark felt a strong sense of pride in working for a criminal justice initiative that frames addiction as a public health problem rather than a crime. Yet he relied on the very criminalization of drug possession to force opioid users into court-supervised treatment, sometimes with deadly outcomes. In this light, I argue that police work’s fundamental reliance on coercion and surveillance makes it ill-equipped to improve the well-being of drug users.

The Changing Mission of Police Work

Law enforcement are increasingly taking up roles as behavioral health service providers across the United States. Some commentators have called this [the medicalization of the police](#). This transformation of policing is a relatively recent phenomenon, which can be at least partially attributed to inadequate local and national funding of community public health systems and services. In many localities, [it is the police](#) who are called upon to deescalate psychiatric crisis situations, with some jurisdictions designating particular officers to direct individuals with unmet behavioral health needs to appropriate social and mental health services. During the opioid epidemic, police began [acting as quasi-paramedics](#) by administering naloxone, a pharmaceutical intervention that reverses opioid overdoses. Beyond dealing with overdose situations, the police are also helping [link opioid users to community](#)

[treatment resources](#) and sometimes even [providing them with support throughout the recovery process](#). These various developments in law enforcement serve as testaments to the transforming nature of police work. As local governments struggle to address public health concerns, law enforcement is taking up behavioral health roles, acting as conduits to resources and even care providers.

Deputy Clark's primary job was to locate and enroll people at high risk of overdose death into drug court. He was passionate about saving drug users' lives. For most of his career in law enforcement, he had not been tasked with helping rather than incarcerating drug users. But in his position at the drug court, Deputy Clark felt that he could finally begin to chip away at his own role in furthering the War on Drugs, which he was critical of for criminalizing drug users, especially from communities of color. On several occasions, Clark stated that one of his top priorities was to give opioid users from communities of color a "second chance at life." I could not help but notice that he would expend extra effort enrolling, transporting, and supporting drug users of color.

The Tactics of Public Health-Oriented Policing

However, helping drug users through the mechanisms of the criminal justice system came with significant social and ethical costs. The drug court's administrators instructed Deputy Clark to enact unprecedented levels of surveillance over the bodies of high-risk drug users. His job was to charge people with *internally* possessing drugs following an opioid overdose, a tactic that has not been used before in the United States, to the best of my knowledge. Drug court prosecutors relied on this charging mechanism to widen the net of potential drug court participants beyond those enrolled through conventional mechanisms, such as normal possession charges or other nonviolent felony offenses.

Internal possession charges are a testament to the continual expansion of police power in the United States. Tough-on-crime policies, which have evolved in various capacities since the mid-twentieth century, popularized the use of possession charges. Two decades ago now, the criminologist Markus Dubber (2000: 834) warned that charging and prosecuting people for possessing drugs and other illicit goods heralded the "end of criminal law as we know it." Prior to the 1960s, Anglo-American criminal law punished possession to the extent that it was associated with conducting harm, or at the very least intending to conduct harm, to others. Contemporary possession offenses often do not involve harmful conduct. Instead, their objective is to police the *potential* harmful use of objects. By turning possession without harm into the offense itself, the

state has taken the far more authoritarian stance of punishing people for victimless crimes. The novel extension of drug possession laws that Deputy Clark's drug court employed is of questionable legality and has been criticized by several local judges. Nevertheless, his drug court has yet to encounter official legal challenges that would bar them from these tactics.

The process of charging people with internal possession involves policing tactics of surveillance. Immediately after emergency medical services transports an overdose patient to a local hospital, Deputy Clark begins building a criminal case against that person. He enters the emergency room and talks with the person and their family and friends with the pretext of providing treatment and recovery resources. While conversing, Clark takes careful note of their drug use history and snaps pictures of injection lesions. He then uses this information to obtain a search warrant to screen the patient's blood for opiates. If a person tests positive for an illicit substance such as fentanyl or heroin, he can then charge them with a felony on the grounds of possessing opioids internally. After being charged, the individual has the choice of entering drug court or moving through the conventional court system, with the latter generally perceived as a riskier option because it can result in a felony conviction.

Normalizing Death

Drug court leadership wanted Deputy Clark to charge and enroll as many people as possible. They did not expect him to evaluate whether someone who had recently overdosed was motivated enough to be successful in a court-supervised program. For this reason, he was neither given specialized training on addiction nor provided access to addiction specialists to help him carry out assessments. This approach sometimes led to poor outcomes. Several of Clark's clients were not successful, which is not surprising given that approximately half of all people in drug courts [fail and end up being sentenced](#). Tragically, a number of his clients died. Studies have shown that entering treatment coercively rather than voluntarily [increases the risk of relapse](#). This is so because preventing people from using drugs lowers tolerance levels and makes accidental overdoses more likely (Binswinger et al. 2012). Thus, after just days of not using, a single relapse can kill.

Overdose deaths had a big impact on Deputy Clark. The death of an elderly Black man who overdosed at a bus stop after absconding from drug court was especially painful for him. When they initially met, this man was in grief following the death of his daughter. He had lost all motivation to get his drug usage under control. Deputy Clark forced him to enter drug court even though the man wanted no part of treatment at

the time. After he overdosed and died, Deputy Clark reflected: “I’m the biggest culprit here. All we did was sober him up, let his tolerance go down, so he can go back out there and die. It took me a long time to get over that one.” Yet he did. In the end, he believed that he “can’t just let people die” by doing nothing, even if that means that they do die while involved with the criminal justice system.

The normality of death was impressed upon Deputy Clark at a National Association of Drug Court Professionals conference in 2019. In a session that he attended on dealing with the trauma that accompanies working with drug users, conference speakers acknowledged that there is an expectation that some drug court participants will die of accidental overdoses. Rather than training drug court professionals to make more informed enrollment decisions and assessments, conference speakers instead provided them with tools to emotionally cope with deaths. Conference participants were told that “a good drug court team” will help one another deal with trauma rather than feel overly affected by it. In a sense, all drug court professionals are expected to do a kind of police work, helping people through surveillance and coercion even if these tactics do not always produce desired outcomes.

It is hard not to sympathize with the efforts of law enforcement officers to right the wrongs of the War on Drugs. The media often praises law enforcement’s new orientation toward public health, noting their potential to be partners and allies in community efforts to address the opioid epidemic. In some ways, they are right. Public health initiatives among law enforcement are certainly more benevolent than incarceration. Yet while the mission and orientation of police work are changing, the tactics are not. By trying to advance public health through coercion and surveillance, officers cannot catalyze the radical and systemic change needed to improve the quality of drug users’ lives. In fact, extensive police powers and limited training in mental or public health does not equip even the most well-intentioned officers to help drug users. Perhaps the criminal justice system is asking these officers to do too much.

Author Bio

Parsa Bastani is working toward his PhD in Anthropology and Master of Public Health at Brown University. His dissertation research concerns the transformation of law enforcement into behavioral health service providers during the opioid crisis in the U.S. Midwest. This research has received funding from the National Science Foundation, Social Science Research Council, National Institutes of Health, and the Population Studies and Training Center at Brown University.

Preview Image

Photo by [Chris Henry](#).

References

Binswanger, Ingrid A., Carolyn Nowels, Karen F. Corsi, Jason Glanz, Jeremy Long, Robert E. Booth, and John F. Steiner. 2012. "[Return to Drug Use and Overdose After Release from Prison: A Qualitative Study of Risk and Protective Factors](#)." *Addiction Science and Clinical Practice* 7: 3.

Dubber, Markus Dirk. 2000. "[Policing Possession: The War on Crime and the End of Criminal Law](#)." *Journal of Criminal Law and Criminology* 91(4): 829–996.