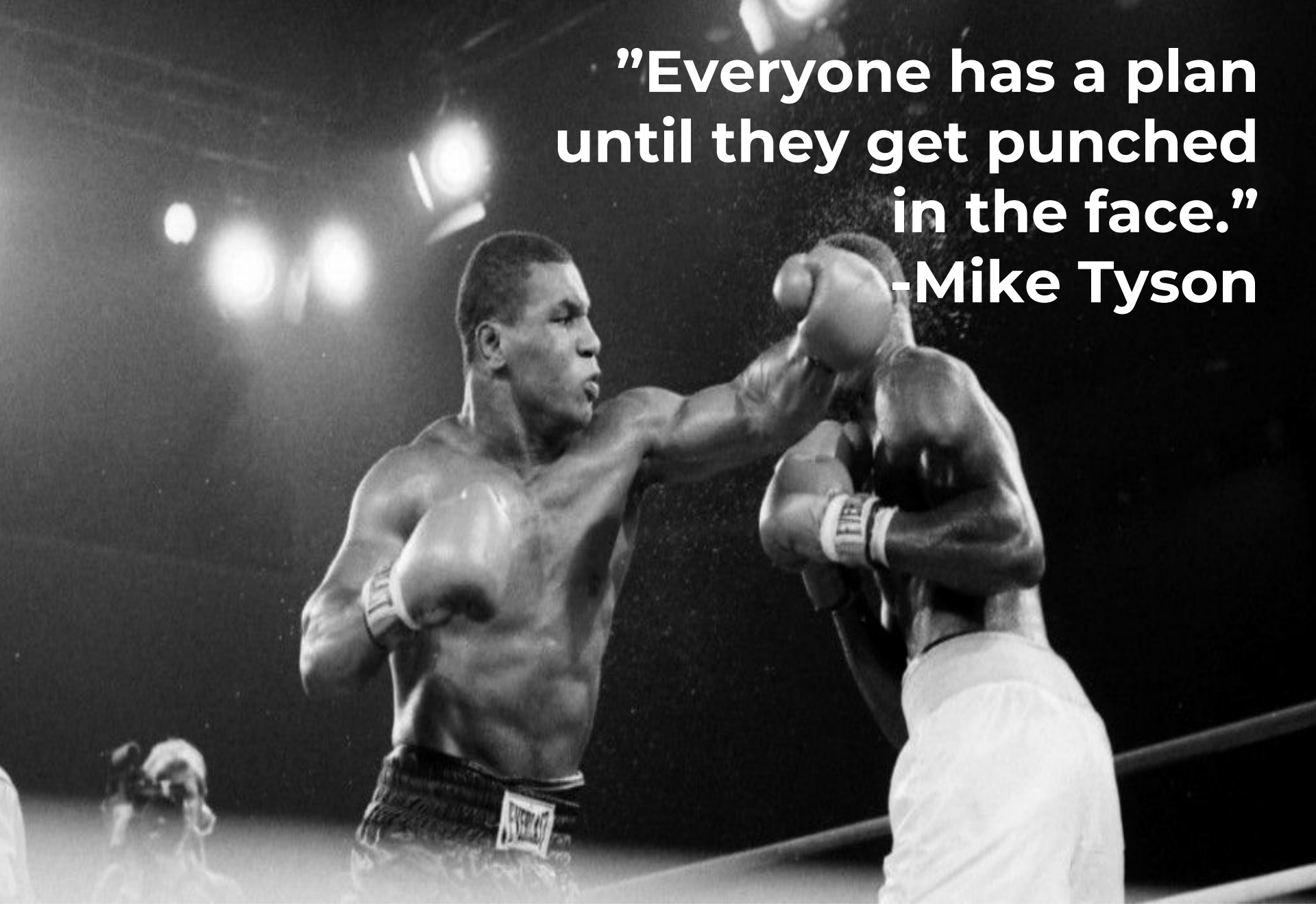


# **Core Competency: Understanding the Basics of Addiction, Treatment and Recovery**

**Circuit Court Judge  
Duane Slone  
4<sup>th</sup> Judicial District, State of Tennessee**



**"Everyone has a plan  
until they get punched  
in the face."  
-Mike Tyson**





# Joseph Booker Slone



# Treating Pregnant Women with Opioid Use Disorder



**Rule 1.1. Competence**

- A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

# Leonardo da Vinci

*“We have to be fearless  
about changing our minds  
based on new information”*





# Addiction Is *NOT* a Moral Failure

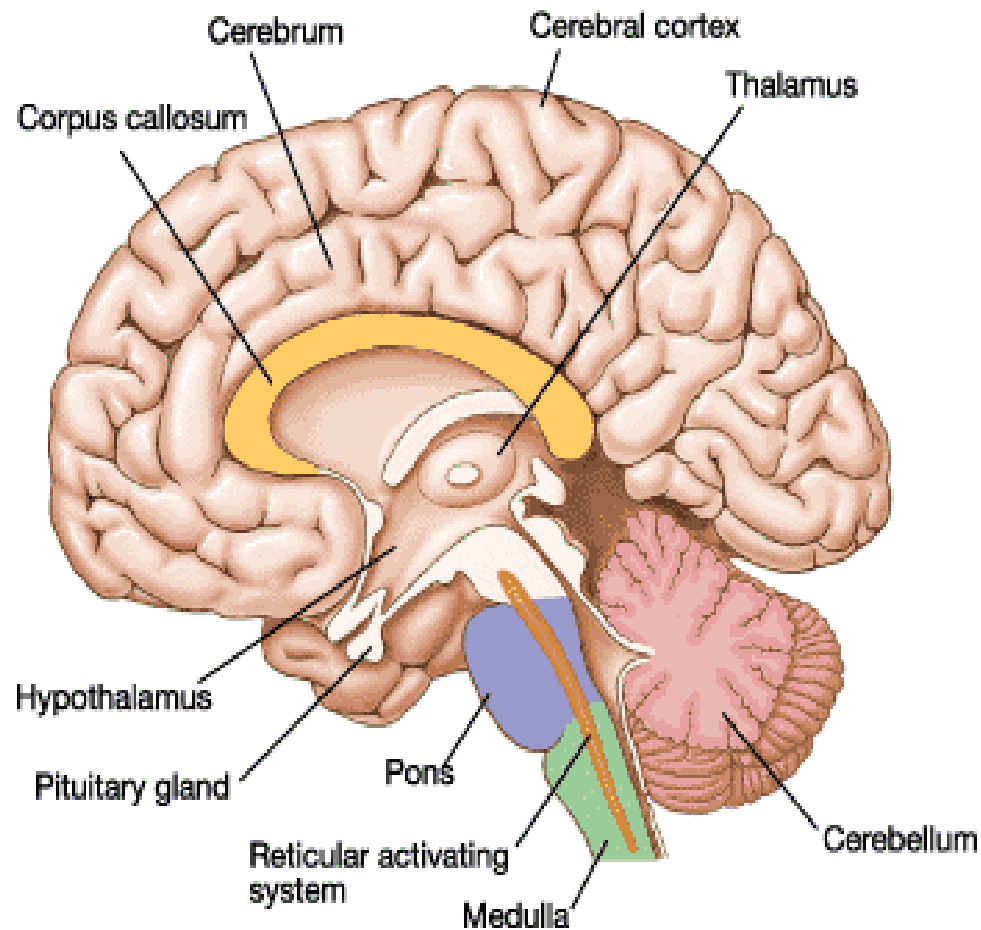




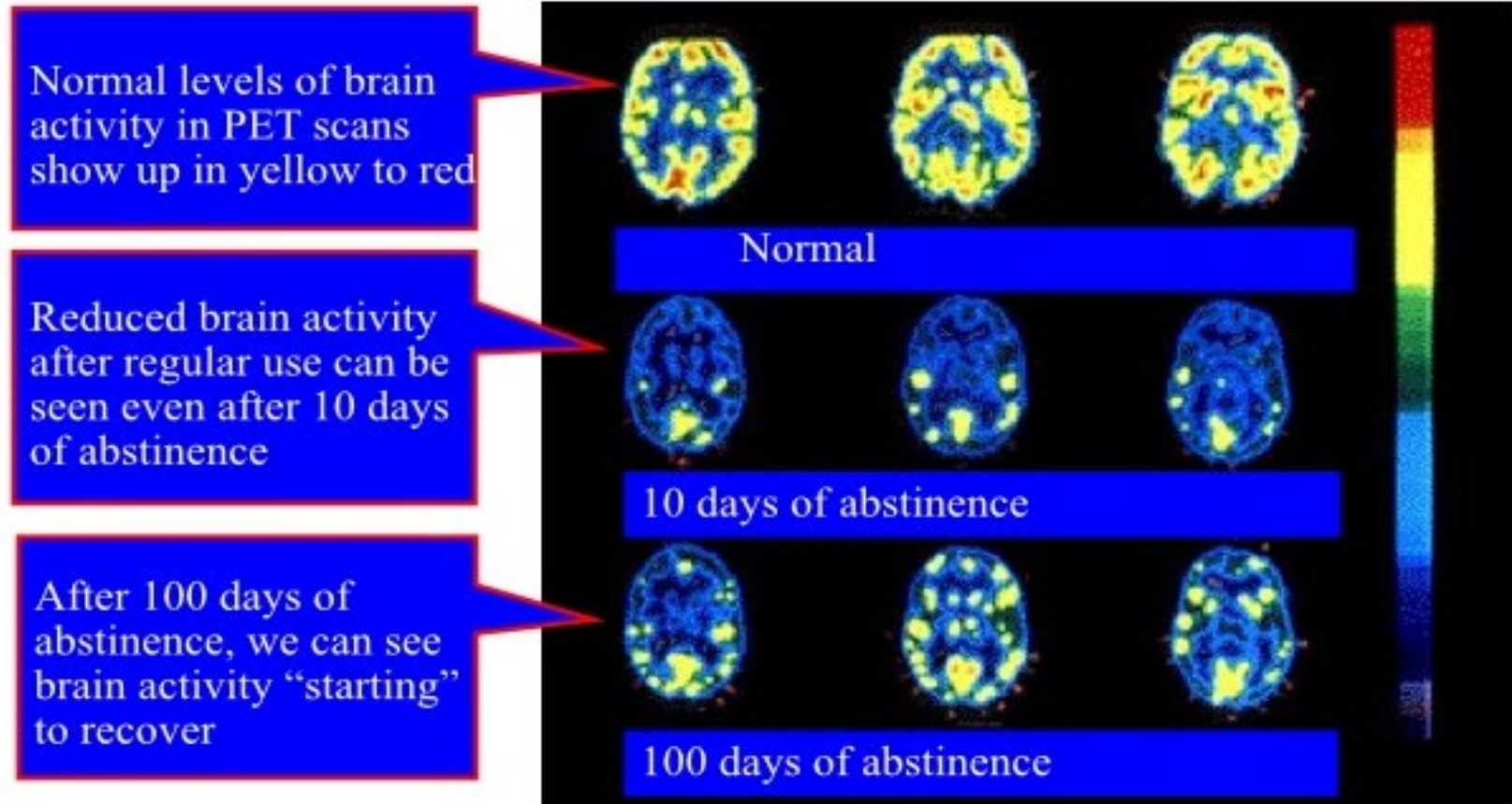
# Dependence vs. Addiction

- **Dependence-** once the drug is stopped, a predictable physiological withdrawal syndrome occurs
- **Addiction-** the compulsive use, loss of control and continued use despite adverse consequences; hallmark is *cravings*.

# Hi-Jacking of the Limbic System (Rewards)



# Brain Healing Takes Time



Source: Volkow ND, et al. *Synapse* 11:184-190, 1992; Volkow ND, et al. *Synapse* 14:169-177, 1993.

*Science = Solutions*



# Bi-Weekly Data Brief: October 17, 2022

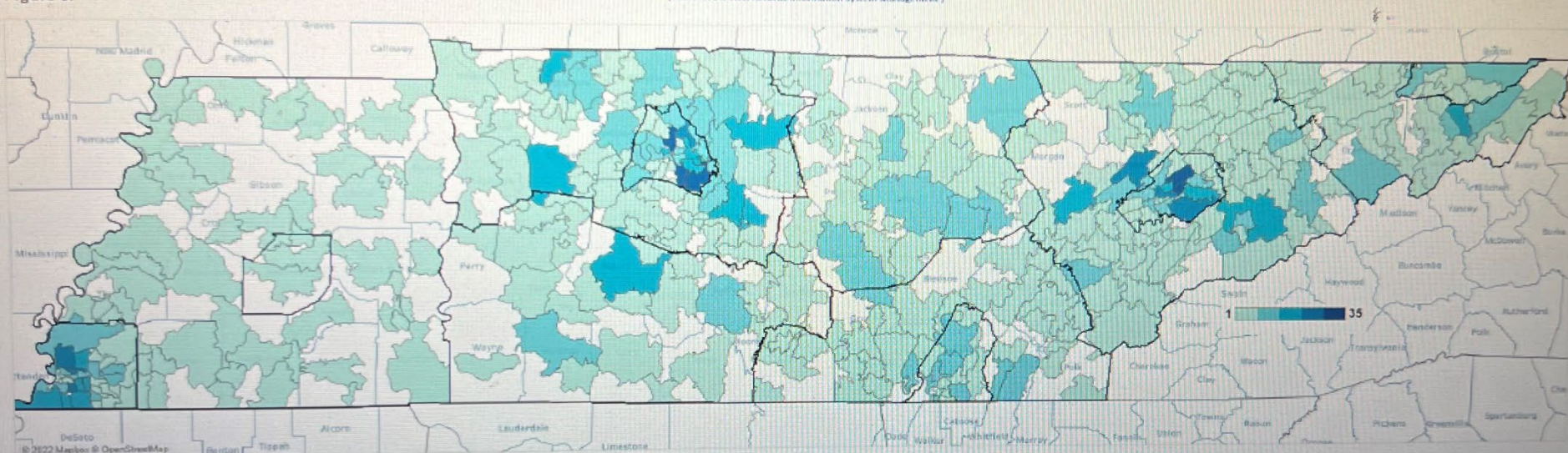
Data Reporting Dates: September 18, 2022 - October 1, 2022

Not for public distribution

## All Drug Suspected Overdose Deaths (January 1, 2022 – October 1, 2022)

(Source: TDH Vital Records Information System Management)

Figure 5.



## Heroin, Fentanyl, & Morphine, Opium, Other Narcotics Related Arrests

(Source: TIDRS Tennessee Bureau of Investigation Reporting System)

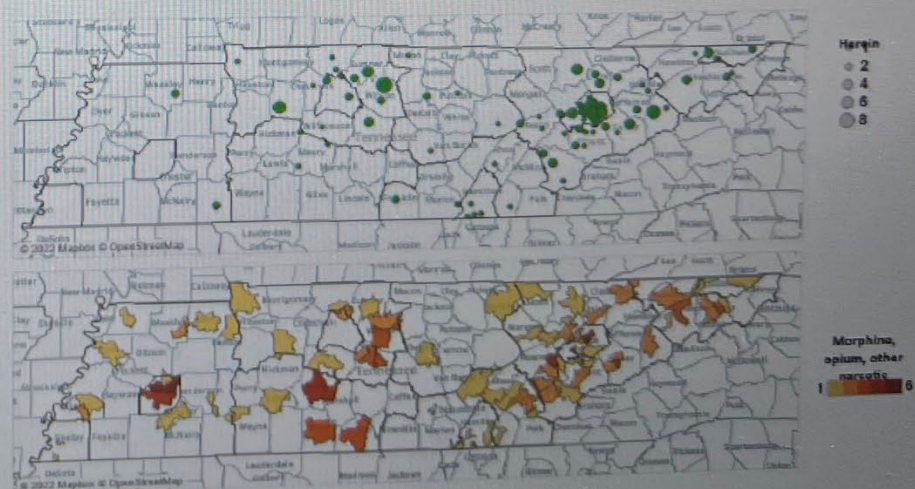
■ FENTANYL  
■ HEROIN  
■ OTHER NARCOTICS

Figure 6.



Figure 7.

September 2022



# **Institutional Bias Against Medication to Assist Treatment of Opioid Use Disorder**



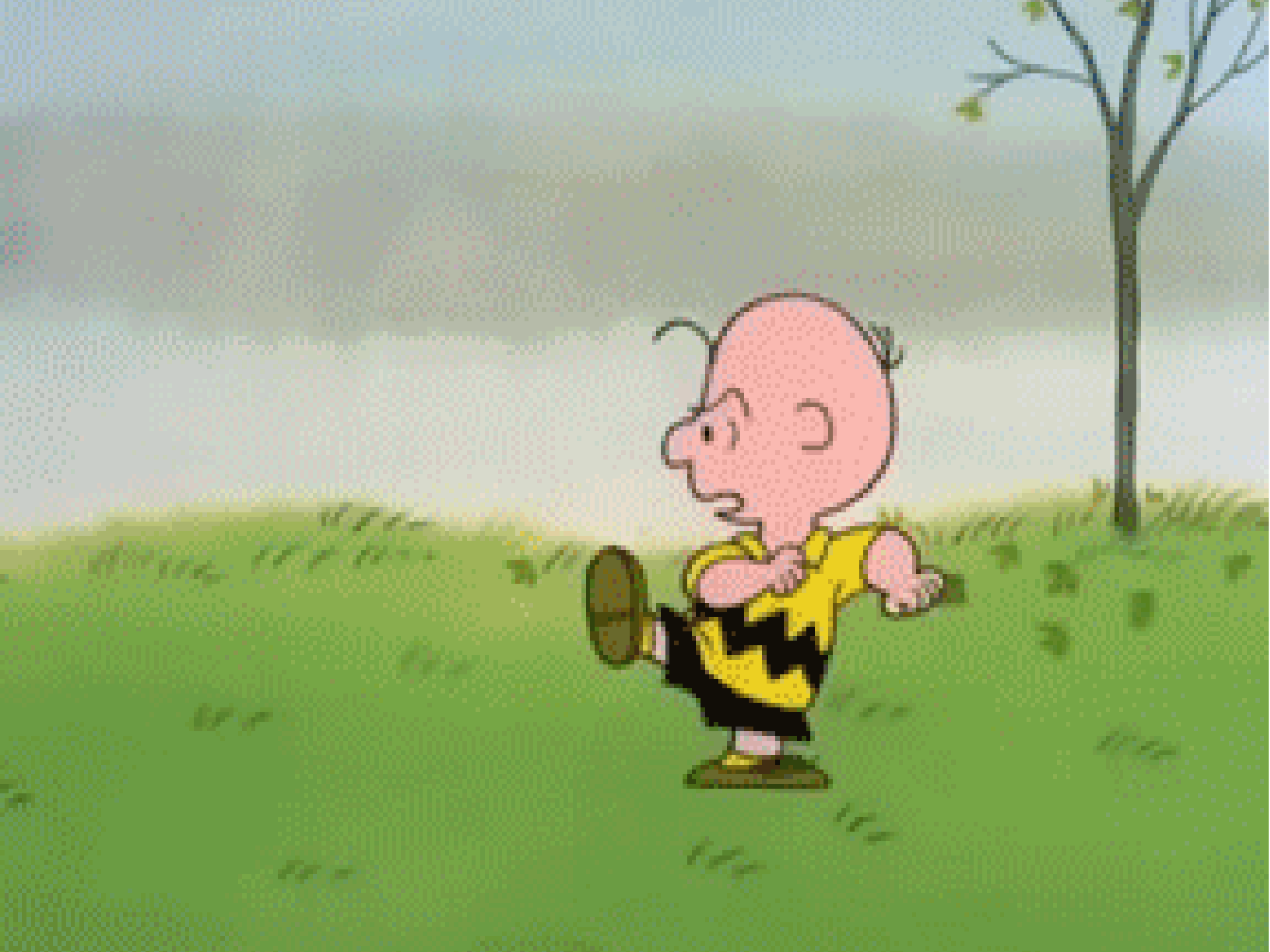




Figure 1  
How OUD Medications Work in the Brain



**Methadone**



*Full agonist:  
generates effect*

**Buprenorphine**



*Partial agonist:  
generates limited effect*

**Naltrexone**



*Antagonist:  
blocks effect*

## PEOPLE USING/NEEDING MAT ARE “INDIVIDUALS WITH A DISABILITY”

- ❑ The court noted that it is well established that drug addiction constitutes an “impairment” under the ADA and that drug addiction necessarily substantially limited the major life activities of “employability, parenting, and functioning in everyday life.” MX Group, Inc. v. City of Covington, 293 F.3d 326, 336 (6th Cir. 2002)
- ❑ Residents of substance abuse facility were individuals with a disability. US v. City of Baltimore, 845 F. Supp. 2d 640 2012)

**Note:** In claims under the ADA defendants have generally “stipulated’ that a plaintiffs with a history of opioid use disorders are “individuals with a disability under the ADA. See Brenda Smith v Aroostook County & Shawn D. Gillen, U.S. District Court, D. Maine, March 27, 2019 (Affirmed by U.S. Ct App, First Circuit, Apr 30, 2019)

# BLANKET PROHIBITION OF M.A.T.

- A Court that has a blanket prohibition against MAT (or against a particular medication such as methadone or buprenorphine) is, in effect, prejudging a factual matter before hearing evidence from both sides and considering the particular facts of each case.
- **Legal Remedies** for blanket prohibition of M.A.T.
  - ✓ State disability laws
  - ✓ Federal Statutes: **The Americans With Disabilities Act** and Rehabilitation Act of 1973 (RA)
  - ✓ Constitutional requirements of Due Process, and Violations of Cruel and Unusual Punishment 8<sup>th</sup> A.

(Best Practices/Standards: NADCP and State Drug Treatment Courts)





# Essential Components of the Most Successful Recovery Oriented Compliance Strategies

1. Accurate assessment and referral to an appropriate level of treatment for an appropriate amount of time
2. Frequent accountability
3. Leverage a/k/a “A big stick”
4. Relationship

Evaluations of physician health programs (PHPs) and the Human Intervention Motivational Study (HIMS) for commercial airline pilots boast long-term recovery rates of up to 90 percent. These programs contain all three of the elements referenced above.

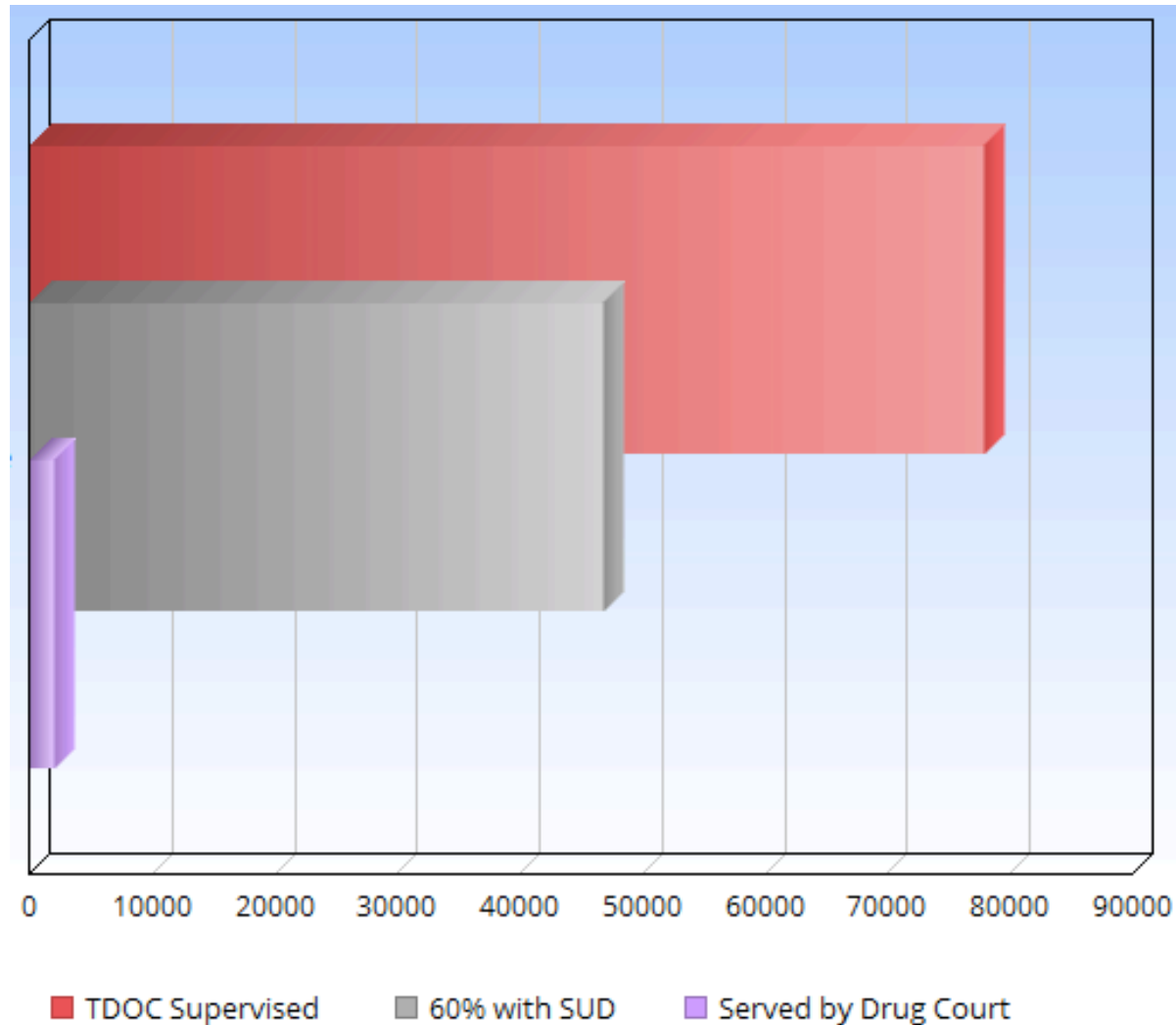
# Drug Recovery Courts

Cannot serve everyone with a substance use disorder!

According to the Bureau of Justice Statistics, more than half (58 percent) of state prisoners and about two-thirds (63 percent) of sentenced jail inmates met the *Diagnostic and Statistical Manual of Mental Disorders*, Fourth Edition (DSM-IV) criteria for drug dependence or abuse during 2007–2009

We need all hands on deck!!!!

With 78,000 on supervised release, there are at least 46,800 that could have a SUD. Meanwhile, only 2,000 are being served by drug recovery courts leaving at least 44,800 “in the gap”.





# Essential Requirements of the Most Successful Recovery Oriented Compliance Strategies

- A trusted person or an organization provides accurate screening, assessments, and referrals to appropriate or best available level of treatment. (Criminal Justice Liaison)
- A trusted person or an organization provides appropriate level of supervision. (TDOC Probation Officer or Community Corrections Officer)
- A person or organization has the authority and ability to apply sufficient leverage in a timely manner to help sustain recovery. (Judge)

# **Tennessee Recovery Oriented Compliance Strategy “TN ROCS”**



# Criminal Justice Liaison (CJL)



- **Performs a “triage” service** using a variety of screening tools such as ASI and CAGE. The CJL then engages the client in clinical assessment, relying on techniques of motivational interviewing and the client’s biopsychosocial information to develop a treatment plan

# Criminal Justice Liaison (CJL) cont'd



- **Criminal justice liaison distributes results to:**
  - Defense counsel: may obtain the full assessment and recommendations
  - Prosecuting attorney: obtains summary of recommendations
  - Judge: obtains summary of recommendations
- **Provides a warm/rapid connection to services**
- **Provides continuing support and advocacy**



# Community Supervision Officer



- TN ROCS participant begins by reporting weekly to the community supervision officer to be monitored for compliance with behavioral health treatment plan and attendance of the “Prevention through Education” class offered by the Tennessee Department of Health
- Scheduled and random drug screening
- Direct communication with the court when noncompliance occurs

# Tennessee Judiciary



- The individual on the TN ROCS docket appears before the court to review compliance with the behavioral health treatment plan and to make adjustments to terms and conditions of supervision where necessary
- The judge may initiate, permit, or consider ex parte communications authorized by law
  - Tenn. Sup. Ct. R. 10, Canon 2, Rule of Judicial Conduct 2.9, Comment 4
- **Affirmation by the judge is critical to the success of the individual**
  - In one study of drug courts, significantly better outcomes were achieved by drug courts that offered higher and more consistent levels of praise and positive incentives from the judge (Zweig, et al., 2012)

# Importance of Judicial Affirmation





## 2 Case Scenarios

Sarah



Sam



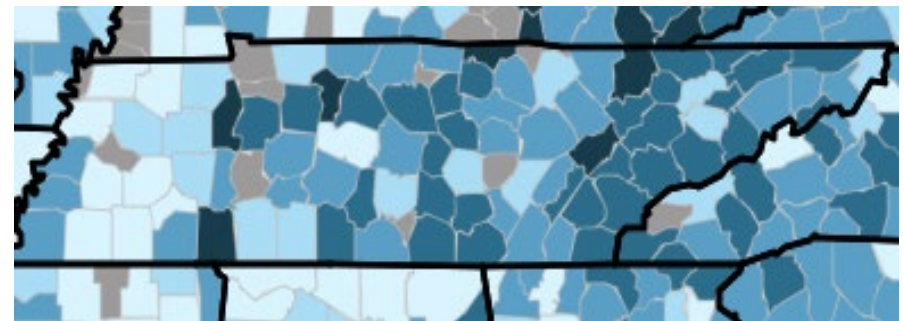


# Decreases in Jefferson and Grainger Counties

Tennessee 2008-2012

All Drugs

Tennessee 2013-2017



<https://opioidmisusetool.norc.org>



Courtesy: Betty Ann Bryce

# Counties trending up v. down

## Roane County, TN

### Drug Overdose Mortality Rate

48.7

Deaths per 100k population  
(Ages 15-64)

23.5

Tennessee Drug Overdose Mortality  
Rate

18.1

U.S. Drug Overdose Mortality Rate

## Roane County, TN

### Drug Overdose Mortality Rate

62.3

Deaths per 100k population  
(Ages 15-64)

32.2

Tennessee Drug Overdose Mortality  
Rate

25.1

U.S. Drug Overdose Mortality Rate

## Grainger County, TN

### Drug Overdose Mortality Rate

21.8\*

Deaths per 100k population  
(Ages 15-64)

32.2

Tennessee Drug Overdose Mortality  
Rate

25.1

U.S. Drug Overdose Mortality Rate

## Grainger County, TN

### Drug Overdose Mortality Rate

41.1

Deaths per 100k population  
(Ages 15-64)

23.5

Tennessee Drug Overdose Mortality  
Rate

18.1

U.S. Drug Overdose Mortality Rate

81

54,027

Urban

Total Deaths

Population

Urban / Rural

Choose County Profile Data Time Period

☒ 2008-2012

☐ 2013-2017

102

52,926

Urban

Total Deaths

Population

Urban / Rural

Choose County Profile Data Time Period

☐ 2008-2012

☒ 2013-2017

28

22,613

Urban

Total Deaths

Population

Urban / Rural

Choose County Profile Data Time Period

☒ 2008-2012

☐ 2013-2017

16

22,942

Urban

Total Deaths

Population

Urban / Rural

Choose County Profile Data Time Period

☐ 2008-2012

☒ 2013-2017



<https://opioidmisusetool.norc.org>

# Success Stories





***“To effectively address the Opioid Driven Addiction Crisis we must go as far upstream as possible, meet people where they are and provide hope and healing”***





The opposite of addiction is *relationship*



## 2 Greatest Commandments

Love God with all of your mind, body and soul  
Love your neighbor as yourself



# One Universal Question

What did you do with what I gave you?



# Questions?

