Policy

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When spent 27 days in the Deschutes County Jail for a probation violation earlier this fall something was different. For one thing, the comedown from fentanyl was "horrendous." It was almost impossible to eat or sleep for the first 10 days, he said.

In the midst of those sleepless nights, Bergstad-Kissinger saw how addiction was treating an old acquaintance — and began to understand how addiction was treating himself.

"Just how he carried himself and how he was about everything just disgusted me — that I was just like that," Bergstad-Kissinger said, describing tossing and turning all night after that. "I promised myself. 'I'm not gonna get out and ... do dope. And so the next day I (called) my probation officer and I said, 'Look, I need help.'"

So this time, when he got out of jail, not only was Bergstad-Kissinger ready for recovery — but the resources to make that happen were also ready for him. Working with providers and peer mentors who regularly visited the jail, he had medical appointments lined up for the day he got out. He's now on Suboxone, a daily drug used to treat opioid addiction, and has a spot at a sober living home.

When Oregon voters approved Measure 110 in 2020 to decriminalize hard drugs in the state, they were promised a less punitive system of shepherding Bergstad-Kissinger and countless others like him into a wider range of treatment options than the 50-year war on drugs. But two years later, the state remains deeply divided about what to do about a policy rollout that has yet to quite live up to those promises.

Decriminalization, overdoses and crime

Oregon has seen skyrocketing rates of overdose deaths in recent years, with overdoses or poisoning becoming 2020's most common form of injury-related death in the state.

But while some political critics of Measure 110 use the rising death rates as evidence of the initiative's failure, others aren't so quick to draw that conclusion. Oregon's increasing overdose deaths have been influenced by a number of things, like the economic and social breakdown from COVID-19 and the nationwide spread of fentanyl appearing in Oregon's drug supply, according to Dr. Todd Korthuis, head of addiction medicine at Oregon Health & Science University.

"The essential truth is that the trends we're seeing preceded Measure 110, and are eclipsing Measure 110," Korthuis said, while noting that the ballot measure has reduced the number of people accessing treatment through the criminal justice system. "I'm very suspicious of statements like 'You know Measure 110 increased drug use.' No, fentanyl increased drug use. And Measure 110 — and the rest of us — are still grappling with how to address the fentanyl issue."

The question of whether or not drug decriminalization is causing increases in addiction, drug overdoses and crime is a fraught one, and it's one experts don't agree on.

For one thing, data on the topic can take years to shift in response to policy changes. But the data that is available shows one promise of the ballot measure is coming to fruition: Fewer people are getting arrested for drug possession. Police made more than 6,700 arrests where possession was the most serious charge in 2019, before decriminalization, according to state data. Since decriminalization took effect in Feb. 2021, police have issued just under 3,500 tickets for drug possession.

About 80% of those tickets resulted in convictions, many for a defendant's failure to appear. Only 8% were dismissed, which occurs under the new law when an individual calls a state-run hotline for a drug addiction screening.

Locally, a spokesperson for the Deschutes County Sheriff's office was hesitant to directly link perceived increases in crime or homelessness to the passage of Measure 110 but said the decriminalization of hard drugs has led to fewer drug arrests. In 2019, deputies responded to 262 drug-related calls for service and made 400-drug related arrests. In 2021, the year drugs were decriminalized in Oregon, deputies responded to 224 drug-related calls and 127 arrests.

Bend Police Chief Mike Krantz said there isn't yet hard evidence to prove the connection, but that what the department has seen suggests that decriminalization is contributing to increased overdoses.

"That's a really challenging position to be in and trying to offer treatment to folks who have really given up everything in their life to fuel their addiction. The only thing they have left is their freedom and that's where I think, previously, there was some impact by really having the ability to, as an option, force treatment because of criminal actions," Krantz said. "At some level, there was an opportunity there to intervene, and that opportunity is lost."

Nurse Practitioner Diana Everly, left, meets with Bradley Bergstad-Kissinger at Ideal Option in Bend last week.

Dean Guernsey/ The Bulletin

Krantz also said that, because writing tickets for drug possession has become less of a priority for the department, investigating some crimes has become more challenging for police, who used to be able to use drug arrests and searches as a way to locate evidence for other crimes.

Oregon's decriminalization hasn't been rolled out the right way, according to Keith Humphreys, director of the Stanford Network on Addiction Policy. He was among a panel of experts who testified to the legislature earlier this year. Humphreys said a plan without any law enforcement wasn't going to work, given that people often need external societal pressure to make the choice to get help.

"What we see is kind of understandable, there's very little pressure, and it feels good (to keep using)," Humphreys told The Bulletin. "A lot of people will keep going."

He points instead to models in European cities where, though drugs are decriminalized, law enforcement is still involved in diverting people who commit non-drug crimes while using drugs and in organized, high-level crackdowns on open-air drug dealing.

Peer mentors: The 'secret sauce'?

For Shawnda Jennings, the work of peer outreach is deeply personal. She lived with addiction for decades, and now works for Ideal Option, which can prescribe hard-to-get addiction treatment medication, meeting people with addiction in the Deschutes County Jail and across the region to get them connected to treatment services, often within a day.

Jennings said she saw a "light come on" inside herself while working her first peer support job at the Cascades Peer and Self Help Center in Bend, and she's continued to feel that in her new, Measure 110-funded job at Ideal Option.

"That's my story, and I feel like I came full circle for a reason," Jennings said. "I feel like it helps me, in my soul, my purpose."

Jennings was the person who helped get Bradley Bergstad-Kissinger an Ideal Option appointment about an hour after his release from jail.

Experts say having immediate access to treatment is critical to successful treatment. Someone might be ready to stop using drugs one moment, but no longer interested when they get off a treatment center waitlist two weeks later, according to Tera Hurst, executive director of the Health Justice Recovery Alliance, a nonprofit that's supporting the rollout of Measure 110.

"The reality is, on the ground, we have not been able to meet people when they're ready for treatment. We put them on waitlists, whether they're two weeks, 10 weeks, a couple of months, we asked folks to just hold on," Hurst said. "We know that you need to have services available the minute somebody's ready, and in Oregon we have not had that."

Another key is the inclusion of lived experience in a person's treatment and support. Peer mentors are the "secret sauce" to a successful recovery strategy, multiple advocates have told The Bulletin in interviews.

"It's that lived experience, that's what peer support is and what makes it key, so individuals can relate," Jennings said.

One goal of Measure 110 was to lean into the importance of immediate access and peer mentorship in supporting recovery. Both were areas of focus for most of the 233 organizations across the state receiving some of the $265 million in marijuana taxes redirected for addiction services.

A major flaw in that plan, though, has been timing.

Oregon decriminalized drugs before it expanded drug services

Bureaucratic bungling has had an outsized impact on perceptions of Measure 110's success: Drug decriminalization took place on Feb. 1, 2021, funding for the treatment services that measure supporters promised would make up for criminal penalties wasn't finally approved by the council until September of this year.

The funding is distributed and overseen by a statewide Oversight and Accountability Council established by the original ballot measure. The 18-member board is made up of volunteers, most of whom are treatment providers, community advocates and medical experts.

A lack of support for those volunteers proved problematic in the first months of the council's attempts to implement and fund Measure 110 services. A year and a half into the board's existence, its meetings are still a mix of major financial decisions, like which providers should get millions, and basic operational decisions, like who should read and respond to emails the board received.

Health authority officials admitted mistakes to state legislators over the summer, noting that the agency hadn't provided sufficient staffing to the council for the complexity of the grant making process. The health authority would not make agency staff or members of the council available for an interview, but said in a statement there was "a lot of learning" early in the process which was also hampered by the pandemic.

"The increased staffing, improved processes and reporting structure we have in place will enable us to move quickly to troubleshoot issues as they arise," Tim Heider, an OHA spokesperson, wrote in response to emailed questions. "We are committed to working closely with the OAC to ensure that people seeking help for their drug use get needed services."

But for Bergstad-Kissinger, recovery isn't about bureaucracy, funding or what politicians and experts have to say about public policy. It's about finding what makes him want to change.

"So I know the tools, I just never applied them. I just never you know, put two and two together and really try," he said. "This is me at full capacity, 110% effort into this."

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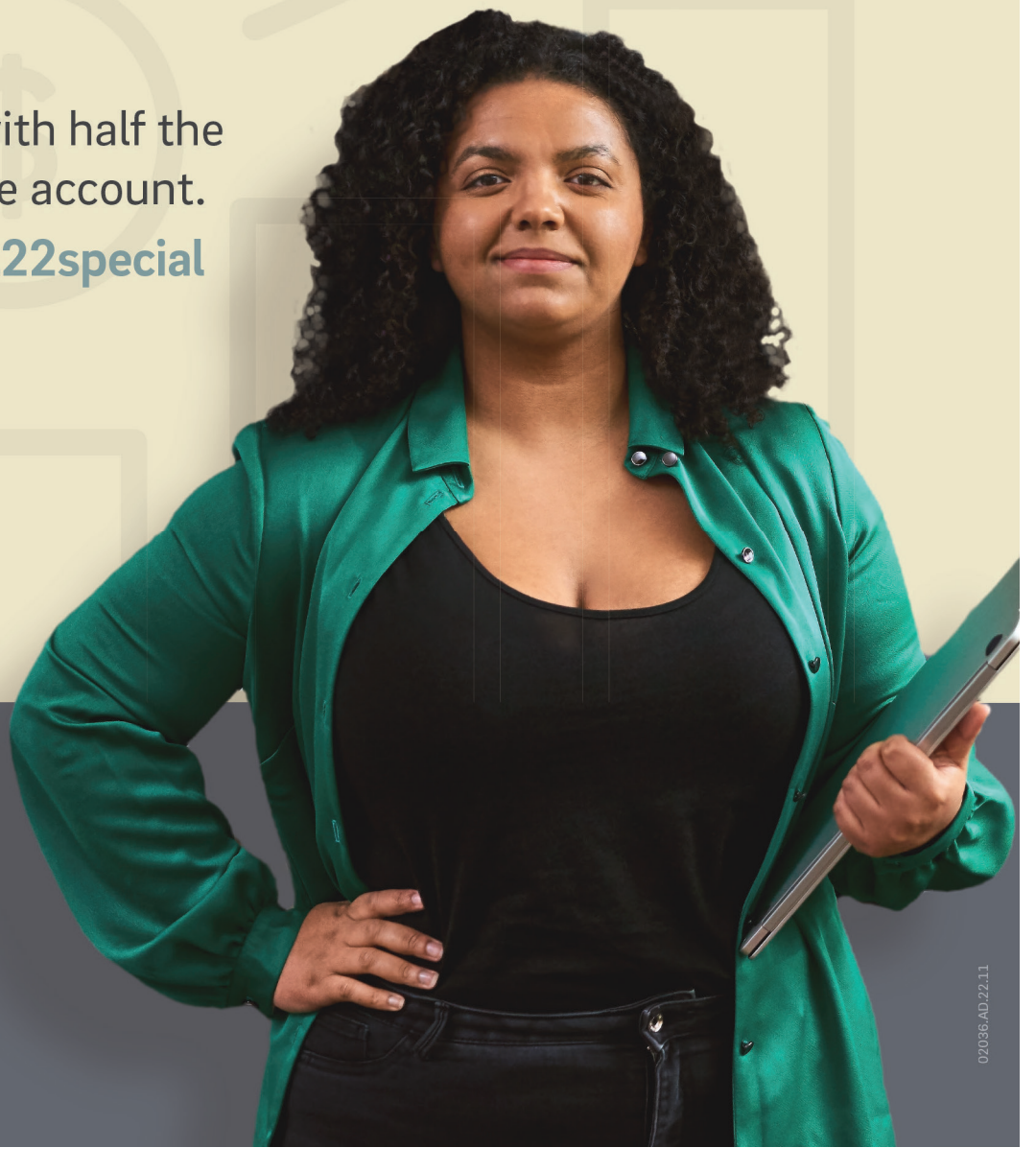

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