FEATURED: Time to Get Tough with China... on Fentanyl: Chinese Manufacturers Are Quietly Fueling the Nation's Opioid Epidemic

By Dave Aronberg

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FEATURED: Time to Get Tough with China...on Fentanyl: Chinese Manufacturers Are Quietly Fueling the Nation’s Opioid Epidemic

August 2018
By
Dave Aronberg

Dave Aronberg is the State Attorney for Palm Beach County, Florida.

As President Trump’s trade war with China continues to escalate, there is a more urgent issue with China that remains overlooked: the continued illegal importation into the United States of the deadly synthetic opioid, fentanyl.

According to provisional data from the Centers for Disease Control and Prevention (CDC), approximately 59% of last year’s 50,000 opioid-related deaths were caused by fentanyl and its chemical variations. Indeed, America’s unprecedented opioid epidemic started with prescription painkillers, morphed into heroin, and has now moved full speed ahead into synthetics, with fentanyl leading the way.

The Drug Enforcement Agency (DEA) reports that fentanyl can be 50 times as potent as heroin, and even the smallest amount—about 2 milligrams, or about 4 grains of salt—is deadly. Its chemical cousin, carfentanil, is even deadlier—just a single grain can kill. Before its illegal distribution as a cutting agent in heroin, carfentanil was seen primarily as an elephant tranquilizer. When it first started to appear in recent years in autopsies of deceased addicts, some medical examiners needed to borrow equipment from local zoos to accurately identify it.

Drug dealers have a financial incentive to spike heroin with fentanyl or its derivatives like carfentanil, as they provide a much greater high than heroin at a fraction of the price. The end user has no way of visually identifying which batch of heroin has been laced with these synthetic opioids, and some individuals are so consumed by addiction that they actually seek out the perilously euphoric high these drugs can provide. Among those with substance use disorder, this is called “chasing the dragon.”

We cannot solve this unprecedented opioid epidemic that now kills 136 people a day without targeting fentanyl. That means confronting the People’s Republic of China, which produces more than 90 percent of the world’s supply of fentanyl. Most fentanyl on America’s streets is illicitly manufactured in Chinese laboratories and often smuggled into the U.S. by Mexican cartels using established networks for heroin and methamphetamine. Chinese suppliers also rely on an unwitting drug runner to export their poison: the United States Postal Service.

Unlike private companies such as UPS or FedEx, the Postal Service is not required by law to get advance electronic data, such as the names and addresses of the sender, to help identify and intercept drug parcels. To close this loophole, the U.S. Senate needs to pass the Synthetic Trafficking & Overdose Prevention (STOP) Act—already approved by the U.S. House of Representatives—that would require the Postal Service to maintain the same security standards as private carriers.

When it comes to pressuring China to stop the exportation of deadly drugs, the United States has been here before. The synthetic stimulant, Alpha-PVP, also known as “flakka,” exploded on the scene in 2014 and 2015. Horrified communities saw drug users experience extreme paranoia, hallucinations and, in some cases, shocking violence. But just as suddenly as flakka appeared, it largely vanished—due mostly to the Chinese government’s ban on its production and exportation in October 2015.

Importantly, China’s decision to end the flakka crisis was not a mere act of international goodwill, but rather a response to U.S. and European pressure. Despite China’s economic liberalization, its government is still a Marxist-Leninist system run by the Communist Party of China with a leader for life, President Xi Jinping. If it wants to ban the production and/or exportation of fentanyl—as it did with flakka—it can do so without debate or filibuster from the minority party because there is no minority party.

However, rising trade tensions with China threaten to undermine any cooperation on fentanyl. In 2015, China acceded to U.S. government requests by adding six fentanyl products to its list of controlled substances, but the U.S. death toll continues to mount. Further tariff escalation will surely dampen the enthusiasm of the Chinese government to comply with U.S. demands to stop spreading these synthetic opioids into the country. Indeed, a top official in China’s drug control agency recently shifted blame to the United States, saying “when fewer and fewer Americans use fentanyl, there would be no market for it.”

When it comes to bilateral negotiations with China, economic issues such as trade deficits and protection of intellectual property are obviously important topics of discussion. Though, too often forgotten is China’s role in feeding America’s
Moving forward, this should be the top priority in future discussions with Chinese government officials.

A strategy of cooperation and conciliation with China to encourage an end to fentanyl exportation has not worked. President Trump has apparently decided that now is the time we should get tough with China on trade, but if a fight is truly warranted, then more than anything else, it should be over the carnage wrought by cheap, potent Chinese fentanyl and its derivatives.

The U.S. House of Representatives recently passed more than 70 bipartisan bills designed to combat the opioid crisis, but for a greater overall impact, the federal government should look farther to the east and exact greater pressure on the country that has the power to turn off the spigot but refuses to do so.
**Chair's Column**

**August 2018**

By

Marvin S. C. Dang, Chair, ABA Senior Lawyers Division

Marvin S.C. Dang is the managing member of Law Offices of Marvin S.C. Dang, LLC in Honolulu, Hawaii and has been an attorney since 1978. He’s currently the 2018-2019 chair of the ABA Senior Lawyers Division, a member of the ABA Nominating Committee, a delegate in the ABA House of Delegates, and a commissioner on the ABA Commission on Racial and Ethnic Diversity in the Profession. During the past 42 years, he’s held leadership positions in various ABA divisions and sections. A former legislator in the Hawaii State House of Representatives, he’s now a registered lobbyist. His law firm’s practice areas include legislation, lobbying, creditors’ rights, and real estate matters. He received his law degree from the George Washington University Law School in Washington, D.C.

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**Aloha (hello) from Honolulu, Hawaii!**

As the Chair of the Senior Lawyers Division for the 2018-2019 bar year, I want to thank you for reading this month’s issue of *Voice of Experience* e-newsletter.

In each of my Chair’s column, I want to introduce you to a Hawaiian word and connect that word to activities in our Division.

For this column, the Hawaiian word is “*ola,*” which means life, health, and well-being.

This month’s e-newsletter contains articles about the opioid crisis—a health crisis that has been called the worst drug epidemic in U.S. history. It affects the lives and well-being of our Division members, our families, our clients, and our communities.

On May 4, 2018—through the vision and leadership of Jack Young (2017-2018 Division Chair)—our Division hosted an Opioid Summit at the ABA headquarters in Chicago. With the theme of “Experienced Lawyers, American Families, and the Opioid Crisis”, the Summit brought together for the first time numerous sections, divisions, and entities within the ABA, various non-ABA organizations, and a multidisciplinary group of experts to collaboratively take a holistic approach to the opioid crisis. The participants included 30 people from ABA entities and non-ABA organizations, 5 nationally recognized speakers, 17 leaders from our Division, ABA staff members, and volunteer law students.

Incorporating the productive discussions, recommendations, and actions items generated at the Opioid Summit, a Report (including 9 recommendations and 45 action points) was prepared by Mary W. Carter, Ph.D., of Towson University College of Health Professions. She served on the Summit’s planning committee and was one of the Summit speakers. Here’s the link to the Report and other documents that were prepared for the Summit: [ambar.org/opioid](http://ambar.org/opioid).

As a follow-up to the Opioid Summit and the Report, an Opioid Initiative Task Force was created by the Senior Lawyers Division with participants from the Summit. During the 2018-2019 bar year, the Task Force will use the Report, recommendations, and action points to collaborate with ABA entities and others to propose policy resolutions and statements addressing the opioid crisis which affects our *ola*: our life, health, and well-being.
Member Spotlight: James L. Schwartz

August 2018

By James L. Schwartz

Jim Schwartz is currently the Chair of the Voice of Experience Editorial Board, a Senior Lawyers Division (SLD) Council Member, member of the SLD Book Board and Experience Magazine Board, and is the Liaison from SLD to the ABA Commission on Sexual Orientation and Gender Identity.

Tell us a little bit about your career.

After graduating from law school, I started my career at the City of Philadelphia’s corporation counsel’s office. I became assistant to the Chief of the Litigation Department and got involved in many exciting and interesting cases. Desiring a more specialized form of litigation, I left the City of Philadelphia and became an attorney for the Enforcement Division for the Commodity Futures Trading Commission—the federal agency which regulates the commodity futures and commodity options markets. Ultimately landing in Chicago, I was involved in prosecuting persons and firms accused of violating the Commodity Exchange Act. I remained there for several years.

After leaving the federal government, I opened a small boutique firm with one other attorney, concentrating the firm in securities, commodities, real estate, tax, general corporate and discrimination-based matters—both transactional and litigation. My basic practice areas have continued to the present, and I remain in the active practice of law.

Is it what you had planned when you started law school?

I have always had an interest in the practice areas that I have concentrated my practice on.

What has been the highlight of your career?

I believe that an attorney should get involved in pro bono areas and provide legal assistance to those who are unable to pay. In that regard, I was on the Board of the Aids Legal Council of Chicago. In the early 90s, I was referred a case where a man was refused medical treatment by a physician in the Chicago area because he was HIV Positive. I filed an action on the man’s behalf in the federal court in Chicago seeking an injunction against the physician to prevent the physician for continuing his discriminatory practices. After hearing, the District Court found in my client’s favor and entered an injunction which prohibited the physician from refusing treatment to my client. This was the first case in the United States which prohibited a physician from refusing medical treatment to an HIV positive man.

I have also been active in several ABA publications for more than fifteen years, including GP Solo Magazine, GP Solo Law Trends, and GP Solo E-Newsletter; currently, I am the 2018-2019 Chair of the Voice of Experience Editorial Board.

I was also a member of the ABA House of Delegates for 5 years, a member of GP Solo’s Council for 5 years, and an incoming member of the Senior Lawyers Division’s Council. Also, I was Chair of the National Lesbian and Gay Bar Association for two years and the first Chair of the Illinois State Bar Association’s (ISBA) Sexual Orientation and Gender Identity Committee. I have also served on numerous other ABA and ISBA committees.

If you could go back to the beginning of your legal career, would you have done anything differently?

I have always had an interest in the political process. If I had to do it all over again, I would explore other opportunities for attorneys as part of the political process to determine my interests.

What advice would you give to someone considering law school today?

As someone who has mentored many, many persons considering going to law school, I always try to do a reality check of him or her to determine their interest in this profession. The daily “grind” can be difficult, but the rewards are truly wonderful.

What were the biggest changes you saw in the legal profession over the course of your career?

In my opinion, civility by attorneys toward other attorneys is at an all-time low. There is no question that an attorney should be an effective advocate for their client. To me, part of being an “effective advocate” includes being courteous to opposing counsel. A case can often be settled on more favorable terms to your client when you work with opposing counsel rather than when hostility exists at every turn. So, before saying “NO” to a request for additional time to file a
response to a Motion, determine where your client is harmed or prejudiced by agreeing to the extension. Also, your request down the road to an extension will be more easily agreed to.

**When did you first become a member of the ABA and why did you decide to join?**

I did not get involved with any bar association until after my kids were in high school. I decided to join when I determined that I should give back to the profession some of the tools it had provided to me.
ABA Addresses the Opioid Crisis

August 2018

By
Katherine Mikkelson

Katherine Mikkelson is the associate director of the Government and Public Sector Lawyers Division. She is a former federal agency attorney.

ABA leaders and staff met in May to address one of the deadliest epidemics of our times: opioid addiction. The numbers are stark and startling. One hundred and fifteen people die each day from opioid overdoses according to the Center for Disease Control. Nationwide, the epidemic is now claiming more lives than homicides and automobile deaths combined. The CDC estimates that the total economic burden of opioid misuse is $78.5 billion a year including criminal justice involvement, addiction treatment, lost productivity and healthcare.

Sponsored by the ABA Senior Lawyers Division, the purpose of the ABA Opioid Summit was to bring experts and ABA leaders together to examine the scope of the problem and develop recommendations to address this major societal crisis. The summit began with a series of presentations from experts who outlined the history and scope of the problem. Dr. Mary Carter, Associate Professor and Director of Gerontology Programs at Towson University in Maryland, kicked off the summit, noting that 2.5 to 5 million people have an opioid disorder, and 80% of these began while using a prescription drug.

Opioids misuse began because pharmaceutical companies and doctors initially considered them a safe way to manage pain; both parties were under the impression that only 1% of patients could become addicted. Dr. Carter outlined that 1998 was considered the start of the epidemic, and the peak of prescribing was reached in 2012. After that time, opioid prescriptions decreased significantly, but at the same time, illegal sources increased, including heroin, which is a much cheaper drug. Currently, fentanyl (a synthetic opioid) outpaces heroin use, and fentanyl deaths now outpace heroin and prescription opioids.

Link Christin, Executive Director of the Legal Professionals Program at Caron Treatment Center in Pennsylvania next spoke about treatment issues. Christin relayed the tragic story of how opioids personally touched his life when his ex-wife’s 17-year-old daughter died from a heroin overdose. Christin spoke about medication assisted treatment (MAT), where patients are often treated with Naltrexone—a drug that blocks the euphoric and sedative effects of opioids—thereby reducing cravings. MAT is not without its critics. For example, if those who are treated with Naltrexone relapse and use the previous dosage of opioids, they could suffer life-threatening consequences including respiratory arrest.

Christin discussed the various obstacles for patients seeking treatment including lack of or poor insurance, philosophical (i.e. one shouldn’t exchange one opioid for another), costs of treatment, the shame factor, and the speed and scope of the crisis. Christin also advocated for the widespread use of naloxone/Narcan, an opioid antagonist. Narcan blocks the effects of opioids and can stop people from overdosing. It very quickly restores normal respiration to someone whose breathing has slowed or stopped. Narcan is available over the counter and is easy to administer with little or no side effects, but it is not without its issues. Opponents claim it can be misused, and that it prevents people from getting treatment for their addiction because they rely too heavily on Narcan. In April of this year, U.S. Surgeon General Jerome Adams issued an advisory urging Americans to routinely carry Narcan.

David Hoffman, a partner with Sidley Austin, LLP spoke about the Legal Service Corporation’s Opioid Task Force that was created by a bipartisan Congressional caucus in April. Hoffman discussed how the Task Force is charged with studying and reporting on challenges and potential solutions for civil legal aid as a result of the epidemic. The legal issues related to opioid addiction include guardianship and elder law issues, domestic violence, child abuse, housing, health care, and employment/disability issues. Hoffman noted that LSC offices are overloaded with opioid-related cases and that some offices do not have attorneys who are experienced enough in these areas. The goal of the task force is to produce a report by April 2019 that provides best practices and recommendations. One idea that experts have proposed is a medical/legal partnership where lawyers are embedded in healthcare facilities. Critics have questioned whether such partnerships would really be effective and where they would need to be physically located to provide the most benefits for the maximum number of people.

Summit attendees broke into three workshop groups to discuss the issues and develop recommendations to address the problem.
Law and Policy Group

Most notable to public lawyers, this group examined the role of federal regulation in controlling drug distribution and sales, including intra-state distribution, pill-mills, and inter and intra-state electronic monitoring. This group also looked at the role of federal and state laws as well as other litigation efforts in curbing the epidemic, including model state laws related to prosecution and access to naloxone, criminal prosecution of traffickers/drug users, class action suits against the pharmaceutical industry, and the status of the Ensuring Patient Access and Effective Drug Enforcement Act (2016).

With respect to this Act, the group noted that the National Association of Attorneys General (NAAG) recently sent a letter to Congress, urging that the act be repealed. NAAG’s position is that the Act limits the DEA’s ability to issue an immediate suspension order against a drug manufacturer or distributor whose unlawful conduct poses an immediate danger to public health or safety. This letter was signed by 44 state and territory attorneys general.

In terms of federal efforts, the group touched on the Department of Justice’s Prescription Interdiction & Litigation (PIL) Task Force that was created in February of this year. The PIL Task Force aims for a multi-pronged approach including criminal and civil remedies against manufacturers, pharmacies, drug testing facilities and individual doctors.

In addition, this group discussed the feasibility of class action and multidistrict litigation akin to the tobacco litigation that states brought against tobacco manufacturers. At least one class action lawsuit has been filed in Mississippi by two southern Alabama hospitals against 20 pharmaceutical companies, alleging that drug makers aggressively pushed their opioid products and falsely claimed that the drugs were not addictive. In addition, multidistrict litigation is being pursued in federal court in Cleveland where hundreds of municipalities, counties and Native American tribes are being brought together in one lawsuit.

Last, the group discussed the role of information and education in combating the crisis, including physician understanding and compliance with guidelines for best-practice prescribing and discontinuation, the effects of declaring states of emergency in mobilizing resources and approaches to disseminating information.

Family and Policy Issues Group

This group examined the impact of the opioid crisis on the family (including child welfare and parental rights, neglect and abuse, family disruption and child/teen exposure to illicit drug use), the impact of the crisis on social and legal services (including foster care, family court, access to rehabilitation and services, and the rural/urban divide in delivering services), ways to strengthen families in the midst of the crisis (including providing supports for kinship care, grandparents raising grandchildren, multi-generational drug misuse, and risks to family members sheltering those with drug misuse disorders) and the hidden epidemic of older adult opioid addiction (including unintentional misuse of opioids, lack of targeted age-specific treatment programs, the problem of chronic pain, and availability of alternative treatments).

Treatment, Advocacy, and Education Group

This group discussed advocacy and public education (including guaranteed access to treatment and recovery programs, widespread education efforts regarding opioid treatment, widely available treatment options, guaranteed access to treatment for incarcerated individuals with dependence, treatment for co-dependency, and access to overdose reversal drugs), improving treatment and rehabilitation (including expedited review of new treatments, medications, and protocols; review of best practices in chronic pain management; review of existing programs and therapeutic treatments; identification of non-pharmaceutical treatments and supports; emergency interventions; and improved methods of program evaluation and effectiveness monitoring) and better management of chronic pain (including alternative strategies for managing chronic pain, adherence to protocols for best-practice prescribing, and discontinuation).
The Artist Formerly Known as Prince and the Senior Lawyers Division: What Do They Have in Common?

August 2018

By

Karen P. Campbell

Karen P. Campbell is an attorney for the North Florida Office of Public Guardian Inc., serves as a Council Member of the ABA Senior Lawyers Division, chairs the SLD Guardian & Guardian Alternatives Committee, and is a Vice Chair of the ABA SLD Opioid Initiative Task Force.

In the few months since the Senior Lawyers Division’s Opioid Summit was held in May 2018, the opioid crisis continues to hold the spotlight in the media. There has been no shortage of opioid-related headlines, scholarly journal articles, and government reports publicizing the enormity of the opioid problem facing the nation. Major media outlets such as ABC, NBC, CBS, New York Times, Huffington Post, and USA Today published stories in recent weeks about the epidemic, from the almost ridiculous notion that adolescents getting their wisdom teeth pulled leads to opioid dependence to the sobering statistics of racial disparities in the deaths attributed to opioid overdoses.

Opioids are everywhere.

It should come as no surprise that experienced lawyers are helping prompt an examination of the impact and effects the opioid crisis has on the legal landscape, including attorneys, their families, and their clients.

The SLD’s 2017 Spring CLE program was initially inspired by Karren Pope-Onwukwe, an elder law attorney from Maryland, and the surprise she felt when she learned musical legend, Prince, died of an opioid overdose. Although the Spring 2017 CLE focused on the effects of the opioid crisis on older adults, this program became a precursor to the Opioid Summit.

Karren O. and I joined the Opioid Summit Planning Committee and were assigned to the Law and Policy subcommittee. Our group members included diverse representatives from around the country: a state’s attorney, a bioethicist, attorneys who have represented the business community, and elder law practitioners.

Reaching consensus was not an easy task given the diverse views of the group, but we managed to stay on track. For example, some members of the law and policy group favored adopting a recommendation urging states to consider joining the multi-district legislation against opioid manufacturers and distributors similar to the tobacco litigation. Other members reminded the group that members were on both sides of the tobacco legislation. This brief example illustrates how different backgrounds, experiences, areas of expertise and practice brought important—and often unexpected perspectives—to the conversation.

Our group made several recommendations outlined in the Summit Report under Focus Area Four: Enact legal and policy reforms that increase access to treatment and recovery and limit unwarranted prescribing and drug misuse. The three recommendations are:

1. Identify state laws and initiatives that have been shown to decrease opioid and substance misuse while ensuring access to pain medications for those with chronic pain.

2. Expand research and understanding of litigation and policy issues with the aim of addressing the sometimes indirect yet complex issues affected by the opioid crisis.

3. Recognize the inconsistent response and action to the opioid crisis versus other forms of substance misuse and advocate for policies that address underlying health and socioeconomic disparities.

Admittedly, the Law and Policy recommendations are broad, but this report begins the task of refining the recommendations into action steps. However, the Division cannot implement these recommendations alone. As we move forward, it is likely the media headlines will continue. But let’s make sure the ABA is a part of the national conversation and the solutions for American families, lawyers, and their clients.

You can read the full report here.
Substance abuse and addiction destroy lives. Productivity is diminished or destroyed, families and relationships are destroyed, and people die. Opioid abuse has grown to the extent that we classify it as a public health crisis—people are dying every day. The situation is not hopeless with treatment.

I chose to contribute to the “treatment” themed track at the Senior Lawyers Division’s summit on opioids because I believe in recovery and new beginnings. There is life beyond abuse and addiction, but most people need help in the form of effective treatment to achieve long-term results.

My spouse is an alcoholic and has been in recovery for over 30 years. He tried quitting on his own and relapsed after a year. The second time around he was fortunate enough to receive treatment in one of the best programs in the world. Treatment helped him develop the tools he needed to deal with the challenges in life. He has gone on to a life of achievement. (He is a soon-to-be-retired college professor.) We met 28 years ago when was just a few years sober. If not for treatment, he would likely be dead, or if not dead, we would not have the relationship that we have enjoyed. There is a saying in the treatment world that it is hard to love another person when you are in a relationship with substance abuse or addiction. His continued recovery has been a welcome part of our relationship.

Opioids are a special challenge. The body becomes physically dependent on opioids—stopping brings both physical and emotional pain. Stopping is further complicated by the fact that opioids are prescribed for pain. Withdrawal brings physical pain resulting from craving the drug, the psychological impact of withdrawal, and unearths the underlying pain that the drug was prescribed to control. For many, opioid treatment requires action on all three fronts. This is more than many most people can tackle without trained professional help.

The background readings and discussion at the summit changed my mind on Medically Assisted Treatment—also known as drug replacement therapy. “Old school” thinking is that drug therapy was just replacing one addiction with another. The experts contend that with opioids they are replacing a harmful (and potentially deadly) addiction with other drugs that block with bodies response to the opioids without incurring the physical pain of withdrawal. This improves the ability to treat the addiction or dependence. Tapering—or gradually reducing the dosage to zero—from the replacement drugs shows a higher success rate than tapering from opioids. Effective treatment still requires therapy to deal with the psychological impacts and alternative methods of dealing with underlying chronic pain.

Access to treatment is essential to ending the opioid crisis. Treatment takes time and can be expensive. The cost of not making treatment available is a loss of productivity, broken families, destroyed relationships, and death. As a society, we need to do all we can to assure that every person who wants help has access to treatment. We can’t stop the opioid crisis without access to effective treatment. With help and with treatment, there is hope.

To explore the background on treatment, see:

- An Overview of the Opioid Treatment Landscape | Link Christin, J.D., MA, LADC
- Medications for Opioid Use Disorders | SAMSHA
- Opioids | National Institute of Drug Abuse
- ASAM National Practice Guidelines
- Medically-assisted Treatment for Opioid Addiction
- Opioid Abuse Treatment and Management
The Opioid Crisis: Coming Soon to a Law Firm Near You

August 2018

By

Link Christin, J.D., MA, LADC

Link Christin serves as Executive Director of the Legal Professionals Program at Caron Treatment Centers. As an attorney, licensed and boardcertified drug and addiction counselor, Mr. Christin speaks and writes nationally about behavioral health subjects relating to lawyers and law firms, addiction, depression, stress, anxiety, work/life balance, wellness, and re-igniting professional passion. His most article "Confronting Addiction in the Law Firm" was the cover story of Legal Management Magazine’s March 2017 issue.

INTRODUCTION

I have spent most of the last seven years working exclusively with impaired lawyers in a residential setting as the Executive Director of Legal Professional programs at Hazelden Betty Ford and more recently at Caron Treatment Centers. This year I also helped plan and spoke at the Senior Lawyers Division’s Opioid Summit.

This epidemic—the worst in our history—has been increasingly addressed and analyzed over the past several years. Books such as Dreamland by Sam Quinones and the newly-published Dopesick by Beth Macy read like harrowing novels. In-depth academic articles such as National Opioid Epidemic is Cause to Examine the Legal Profession’s Own Problems with Addiction (ABA Health ESsource, Volume 13, No. 2) by Karen Harris and Patrick Krill take the step of evaluating the root causes of increasing opioid use by lawyers. Finally, a superb and jarring feature in the New York Times, The Lawyer, The Addict by Eilene Zimmerman tracked the heroin overdose death of a 49-year-old superstar Silicon Valley lawyer who had presented as fully-functioning (and under the radar) for decades.

This piece makes no attempt to replicate the insights of this literature or that of others. It is simply intended to briefly capture my current insights into the role of opioids in the lives of impaired lawyers: a population already identified as the most addicted of all professions.

1. IT’S HERE!

Seven years ago, when I began working with impaired lawyers in a residential setting, their primary drug of choice was never an opioid. With rare exceptions, lawyers drank, engaging in the hard-drinking/hard-playing culture in place for decades. They might present with a co-occurring mental health disorder, such as depression, anxiety, or PTSD, but opioids were nowhere to be found. Now, at least 20% of the lawyers I treat list opioids—Vicodin, codeine, methadone, Oxycontin, fentanyl, or heroin—as their drug of choice. From younger lawyers who began their addiction by raiding medicine cabinets to older ones who have been treated for chronic pain issues and became very quickly addicted, they are all present in treatment.

Many of the same innate qualities of lawyers and law firms that fuel over-the-top problematic drinking now extend to opioid abuse. However, lawyers with opioid issues are even more reluctant to seek help and treatment. The stigma along with potential professional and legal ramifications are greater because the opioids (seldom prescribed) are illegal. The shame is enhanced. And being a “drug addict” contrasted with a heavy drinker does not square with their own ego and perfectionism. This enhanced stigma—coupled with the ongoing issues of client entertainment and practicing in isolation with little accountability—creates a perfect storm for the opioid epidemic to come to a law firm near you.

Often, it’s easier for a lawyer to function highly on opioids. There is no smell, no hidden liquor bottles, and not as many overt signs of use. Although control of opioids cannot be indefinitely maintained—the same as with alcohol—the use can still be effectively masked for as long as decades.

2. IT IS REALLY DANGEROUS!

It’s like you have read statistics about the massive increase in opioid deaths, most of them accidental. There are reasons for this. For example, if opioids are mixed with alcohol, fatal respiratory depression is often the result. If an opioid addict stops for a period, his or her relapse at the same level of use is commonly (and predictably) fatal to a system no longer acclimated to that level of use. In these instances the chance of death is 30 times greater. Lawyers are not immune to either of these behaviors, and it appears that this deadly result will only increase in relation to the growing and predictable use by lawyers.

I recently treated an attorney who overdosed on Oxycontin and was found on the bathroom floor of his Big Law firm, five minutes from death. In contrast, this year I also treated 29-year-old and 31-year-old IV heroin addicts—both female attorneys—who appeared robust and healthy and were using without any suspicion from their firms or colleagues.
Not only are the obstacles to reaching out for help greater—thus the length of untreated use and addiction longer—but the opioids themselves present a different level of danger. First, they are far more addictive at a faster rate than alcohol. We’ve all heard the story of morally conservative adults who are given painkillers following surgery and within weeks are addicted. Second, the withdrawal from opioids is longer and more painful than from alcohol. In many cases, fear of withdrawal can often extend the addiction far past the point where there is any emotional reward in the drug itself.

3. WHAT TO DO?

As with the ongoing alcohol crisis in our profession, the solution to the stigma and the causes of opioid addiction must begin with early and proactive education. Lawyers and firms need to understand the disease model as well as the prevention, detection, and treatment of the condition. Part of all of this should focus on well-being, often not a priority in law school or in the practice.

Work/life balance, relaxation techniques, ways to cope with stress and anxiety, the role of assessment and treatment, and a sound back-to-work or school path all constitute preventative measures and encourage openly and honestly confronting the disease and getting better. This education can begin with something as simple as a mandatory two-credit course the last year of law school and then a law firm orientation which addresses these issues head-on. Specific subjects such as opioid tolerance and drug-mixing could be considered as part of the curriculum.

Perhaps most importantly, the lawyer should be able to look at the law school or the firm as a potential partner in assessing and treating these issues without fear of professional damage—much like other chronic diseases such as diabetes, cancer, or heart issues. Obviously, if the lawyer does not follow treatment protocol then the firm may have limited options at that point since ethically and professionally it cannot permit the lawyer to service clients. But at least an opportunity to get better and return to the firm should be safe and available, or otherwise, lawyers will continue to huddle alone and isolated as the disease simply progresses, portending far greater damage in the future.

Residential centers have also started to adapt to the new reality of this challenging crisis by establishing entire units dedicated to opioid treatment and programs specifically for lawyers (including Caron). These programs are critical to long-term positive outcomes become they address the specific issues and needs of high-functioning individuals with high-stress careers and offer comprehensive behavioral healthcare and medically assisted treatment. All these factors will play an important role in improving the chances of long-term recovery.
In My View: Overestimating Drones: Then and Now

August 2018

By

Norm Tabler

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Editor’s Note: Starting with the September issue, Voice of Experience will include a new column that we believe will interest and perhaps even entertain you. Each month Senior Lawyers Division member Norm Tabler’s Adventures in the Law will present a light-hearted take on a recent development in the legal profession. We think you’ll be amused by Adventures in the Law.

The “drone” has long been a popular metaphor in American culture. What if we have been consistently misapplying the term and in the process crediting males with qualities that in reality are restricted to females?

Then

Nearly half a century ago with a new law school diploma in hand, I joined the firm I’ve been associated with ever since. We young associates were single-minded in our desire and effort to make partner. We were quick to judge and label the performance of one another, as the immature and insecure often are.

We might label a particularly hard-working colleague a “drone”—someone whose value to the firm lay in the countless hours spent laboring in the firm library. (Do law firms even have libraries now?)

I’m embarrassed to admit that some time passed before I recognized that our use of the term was hopelessly off base. As a metaphor it was not simply wrong; it was the exact opposite of correct.

The drone we had in mind was a honey bee. The problem is that drones—always male—are far from hard-working. In fact, they are the opposite of hard-working. A drone does no work whatsoever, unless you count mating with the queen bee as work.

If we needed a bee metaphor for a hard worker, we should have called the associate a “worker bee” instead of a “drone.” And perhaps it would have occurred to us that worker bees are always female. If so, maybe law firms would have opened their doors to women applicants long before they did.

Now

These days when someone refers to a drone, chances are the reference is to a drone aircraft: a sort of flying robot deployed for an ever-expanding list of useful activities. A camera-bearing drone enables a farmer to survey crops or the park service to search for a missing hiker.

If a drone is featured on the front page of a newspaper, most likely the article covers the drone’s capacity to deliver a lethal missile in the direction of an enemy.

But as in the past, the metaphor is more than a little off-key. A drone bee doesn’t leave the hive and engage in a useful activity. In fact, it never leaves the hive.

And even if it left the hive, a drone would pose no threat to anyone or anything. Why? Because a drone has no stinger. The bees with stingers—stingers that can frighten and hurt those they encounter—are worker bees, not drones. And, yes, they are always female.

The Lesson

If we want to employ a bee metaphor to describe either a hard worker or a useful device, we should refer to female bees. Males—drone bees—are the opposite of hard-working and useful.

And maybe the lesson applies to leadership qualities as well. After all, nobody ever heard of a kingbee.
2018 National Aging and Law Conference

August 2018

By

David Godfrey

David Godfrey is a senior attorney to the American Bar Association Commission on Law and Aging. His research focuses on decision making, advance planning, legal ethics, and legal service delivery. He is on the board of the National Academy of Elder Law Attorneys. He was previously responsible for age-related programming at the Access to Justice Foundation in Kentucky. He earned his BA from Rollins College and his JD from the University of Louisville.

The 2018 National Aging and Law Conference (NALC) welcomes the ABA Senior Lawyers Division as a co-sponsor. NALC will be held October 25-26th at the Crowne Plaza Hotel in Alexandria, Virginia. The venue is about 3 miles directly south of Ronald Reagan Washington National Airport. The group rate at the hotel is $165 per night plus tax (limited in quantity.)

This is the 5th year the ABA through the Commission on Law and Aging has organized and hosted NALC. To encourage SLD members to attend we are extending a special super discounted registration rate of only $375 to SLD members. This rate is available online or by phone at ~800-285-222 (SLD - council members) and at http://www.ambar.org/NALC.

Registration includes lunch on Thursday and Friday, breakfast on Friday and the opening reception on Thursday evening, along with up to 11.5 CLE credits.

The agenda includes 4 plenary sessions and 30 workshops to choose from over two days.

Plenary sessions will start with an update by the federal Elder Justice Coordinating Council, then a look at Participatory Justice – an emerging model of alternative dispute resolution that focusses on healing, ethics and elder abuse and the Lightning-Round.

Workshops cover a wide range of topics from basics of Medicare to complex issues in access to care, elder abuse, disaster recovery, Veterans benefits, and changes in Social Security law. A detailed agenda can be found in the registration brochure at http://www.ambar.org/NALC.

Please email David.Godfrey@Americanbar.org with any questions.