

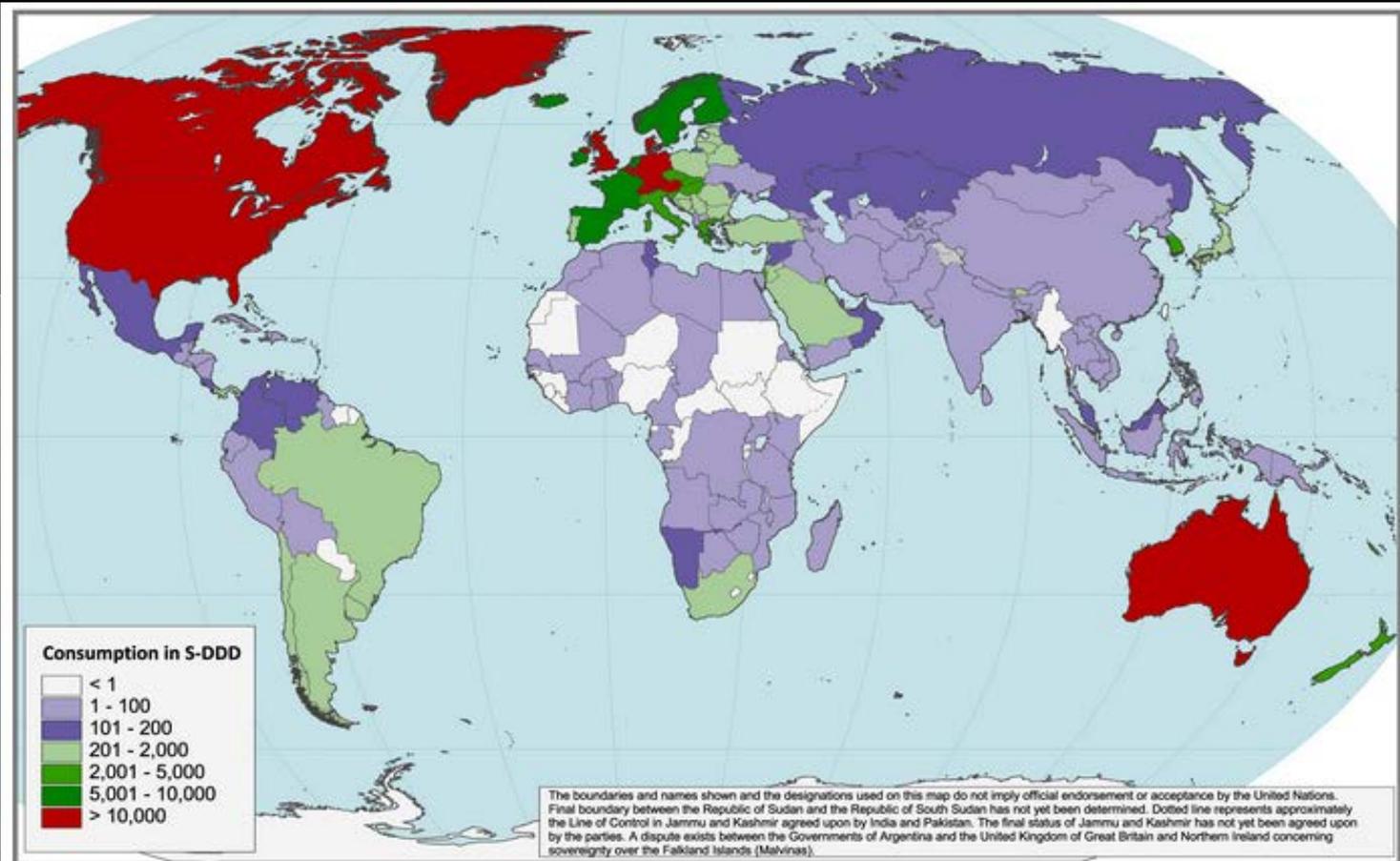
# PRESCRIPTION DRUG PROSECUTIONS



DEA Distributor Conference, April 16, 2015



# INCB: Availability of opioids\* for pain management (2010-2012 average) (Consumption in defined daily doses for statistical purposes (S-DDD) per million inhabitants per day)



\*Codeine, dextropropoxyphene, dihydrocodeine, fentanyl, hydromorphone, ketobemidone, morphine, oxycodone, pethidine, tilidine and trimeperidine.

## PROBLEM

Prescription drug abuse is the fastest growing drug problem in the United States.

In 2010, approximately 38,329 unintentional drug overdose deaths occurred in the United States, one death every 14 minutes.

75.2 % were attributed to opioid overdoses

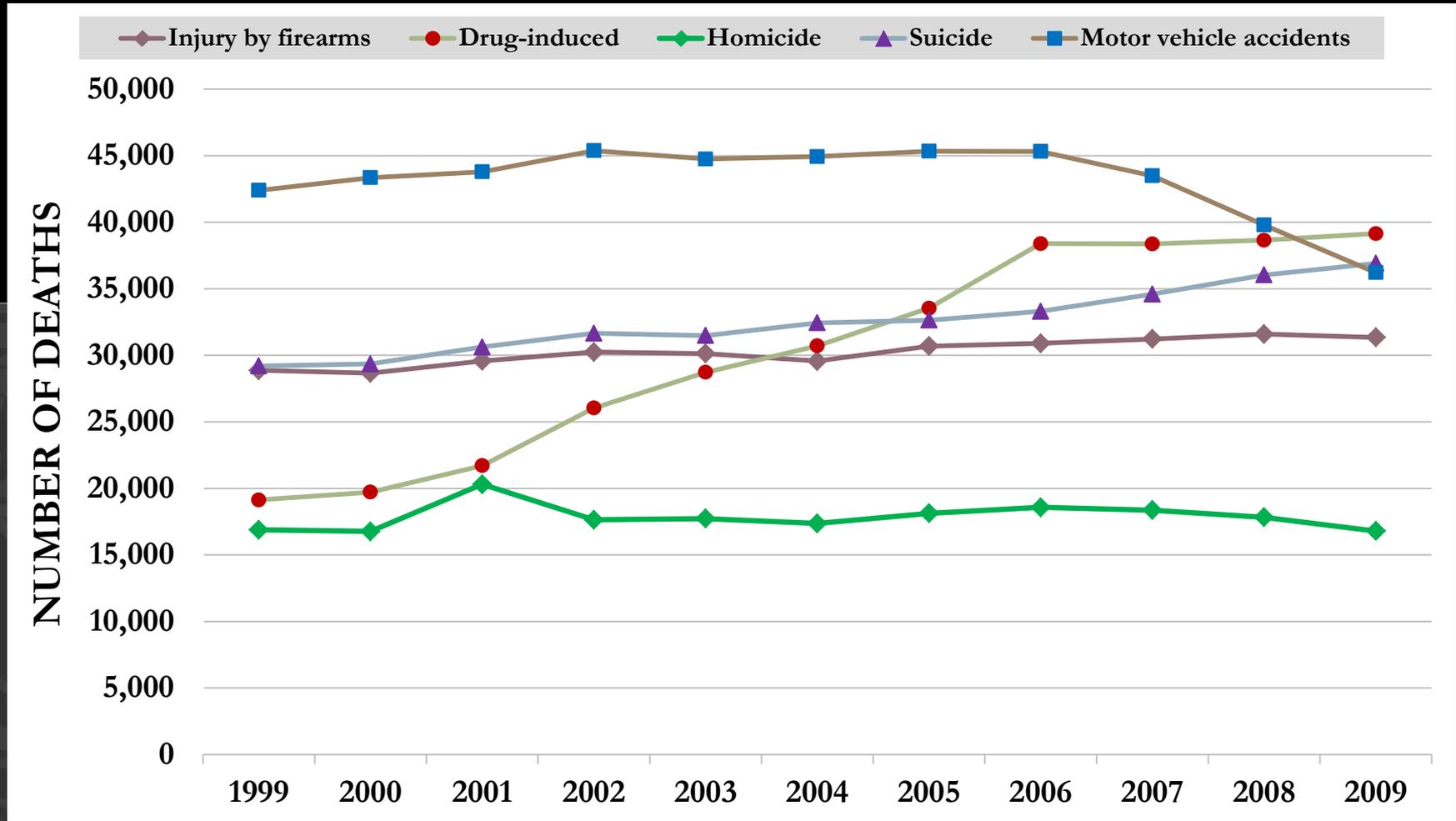
In 2011, the number grew to 41,340 deaths, one death every 12 ½ minutes.

74.2 % were attributed to opioid overdoses.

Drug overdose deaths have increased for 12 consecutive years



# Drug-Induced Deaths vs. Other Injury Deaths (1999–2009)



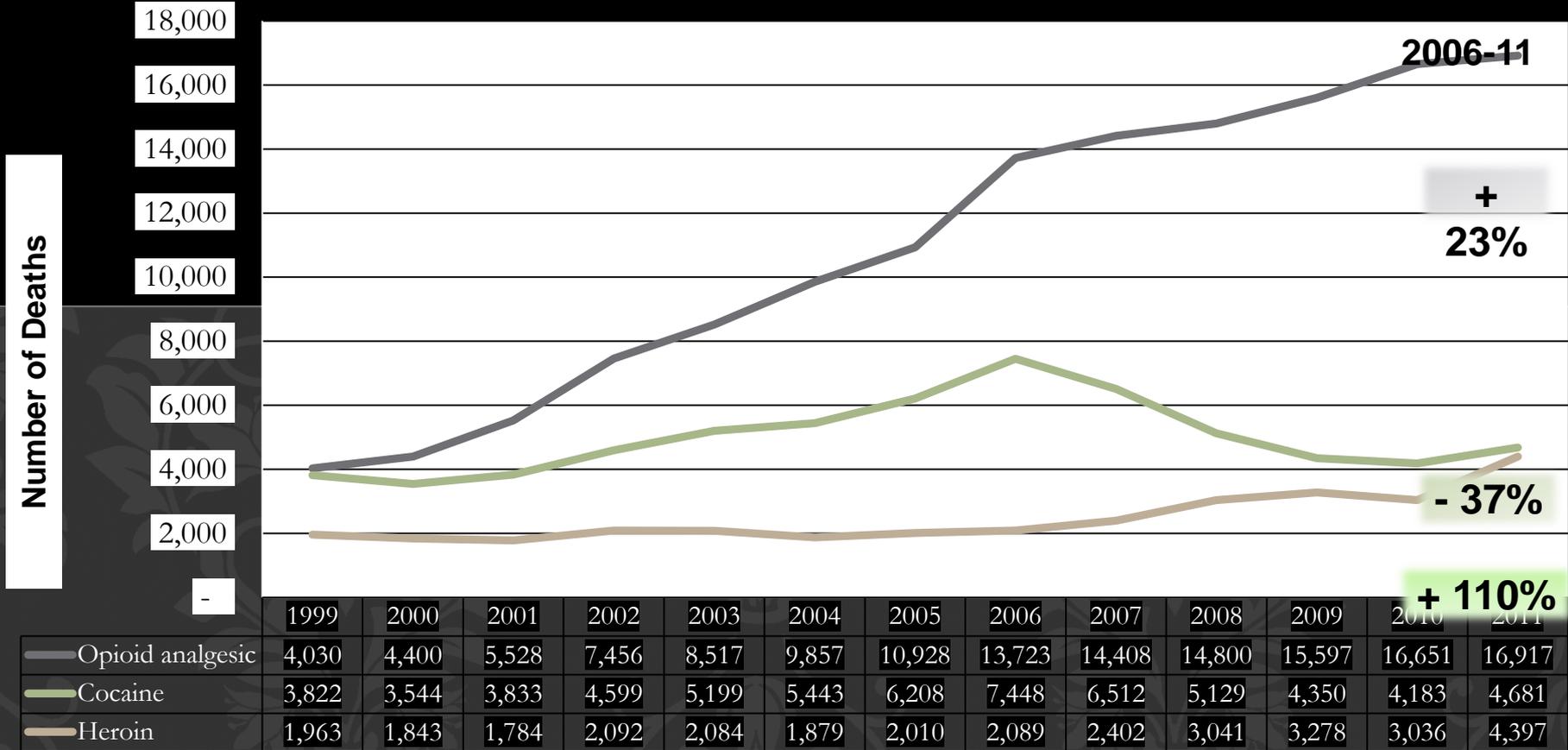
Causes of death attributable to drugs include accidental or intentional poisonings by drugs and deaths from medical conditions resulting from chronic drug use. Drug-induced causes exclude accidents, homicides, and other causes indirectly related to drug use. Not all injury cause categories are mutually exclusive.

Source: National Center for Health Statistics, Centers for Disease Control and Prevention.  
National Vital Statistics Reports *Deaths: Final Data* for the years 1999 to 2009 (January 2012).

U.S. Drug Enforcement Administration  
Office of Diversion Control



# Drug Poisoning Deaths Involving Opioid Analgesics, Cocaine, and Heroin: United States, 1999-2011



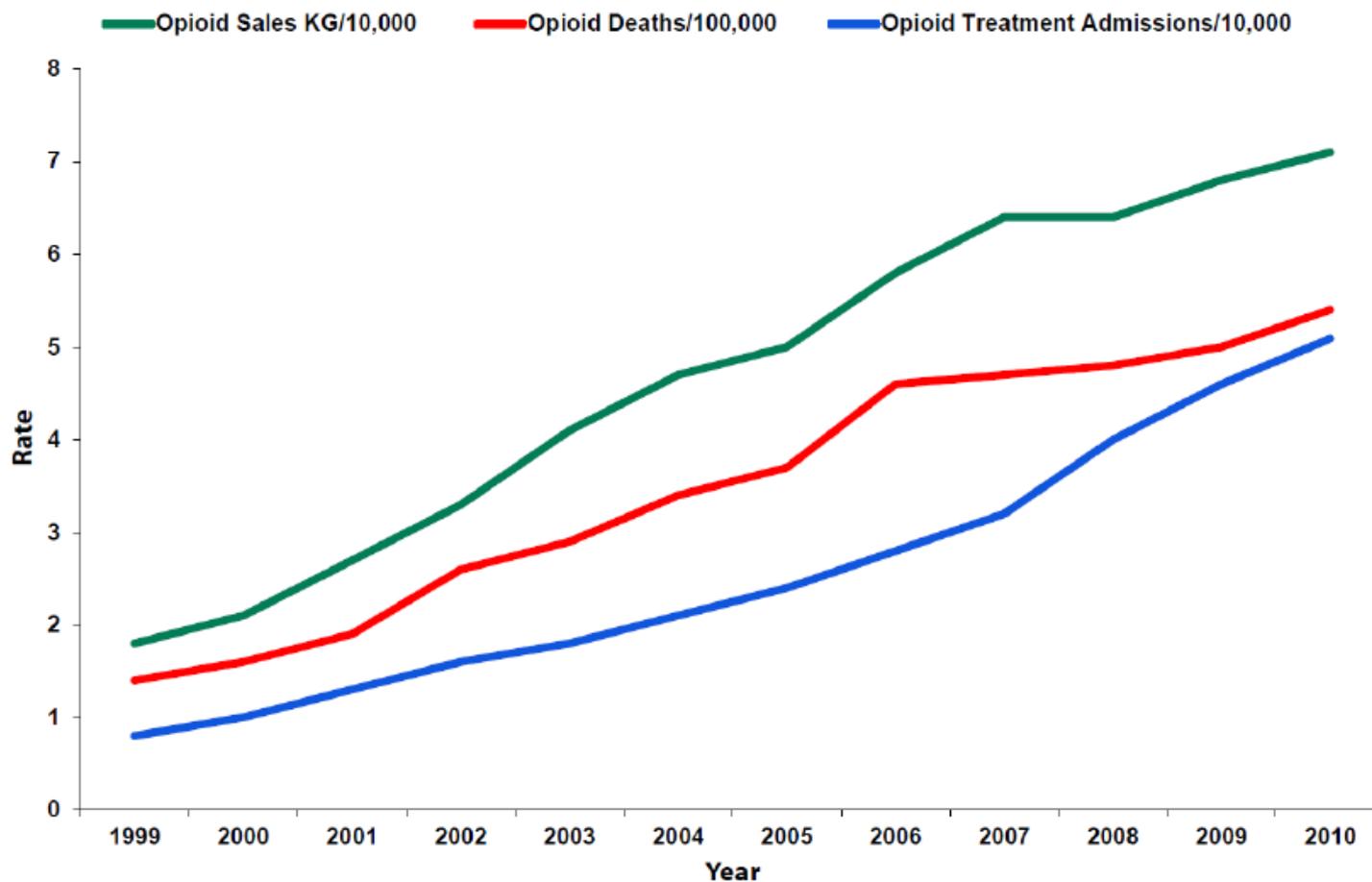
Note: Not all drug poisoning deaths specify the drug(s) involved, and a death may involve more than one specific substance.

The rise in 2005-2006 in opioid deaths is related to non-pharmaceutical fentanyl (see <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5729a.htm>). \*Heroin includes opium.

Source: National Center for Health Statistics/CDC/ *National Vital Statistics Report*, Final death data for each calendar year (June 2014).

U.S. Drug Enforcement Administration  
Office of Diversion Control

# U.S. Rates of Opioid Overdose Deaths, Sales, and Treatment Admissions, 1999-2010



Source: National Vital Statistics System (NVSS), DEA's Automation of Reports and Consolidated Orders System, SAMHSA's Treatment Episode Data Set

U.S. Drug Enforcement Administration  
Office of Diversion Control

# OVER PRESCRIBING?

In 2010 alone, 254 million prescriptions for these drugs were filled in the United States, **enough for every adult in America to stay medicated around the clock for a month.**

These drugs include codeine, oxycodone (e.g., OxyContin, Percodan, Percocet), morphine, hydromorphone (e.g. Demerol and Dilaudid), propoxyphene (e.g. Darvon and Darvocet) and methadone (e.g. Dolophine and methadose).

The quantity of prescription painkillers sold to pharmacies, hospitals, and doctors' offices was **four times larger in 2010 than in 1999.**

# PAIN KILLER PRESCRIPTIONS

In 2012, Southern states had the most prescriptions per person.

The top three states were Alabama, Tennessee, and West Virginia;

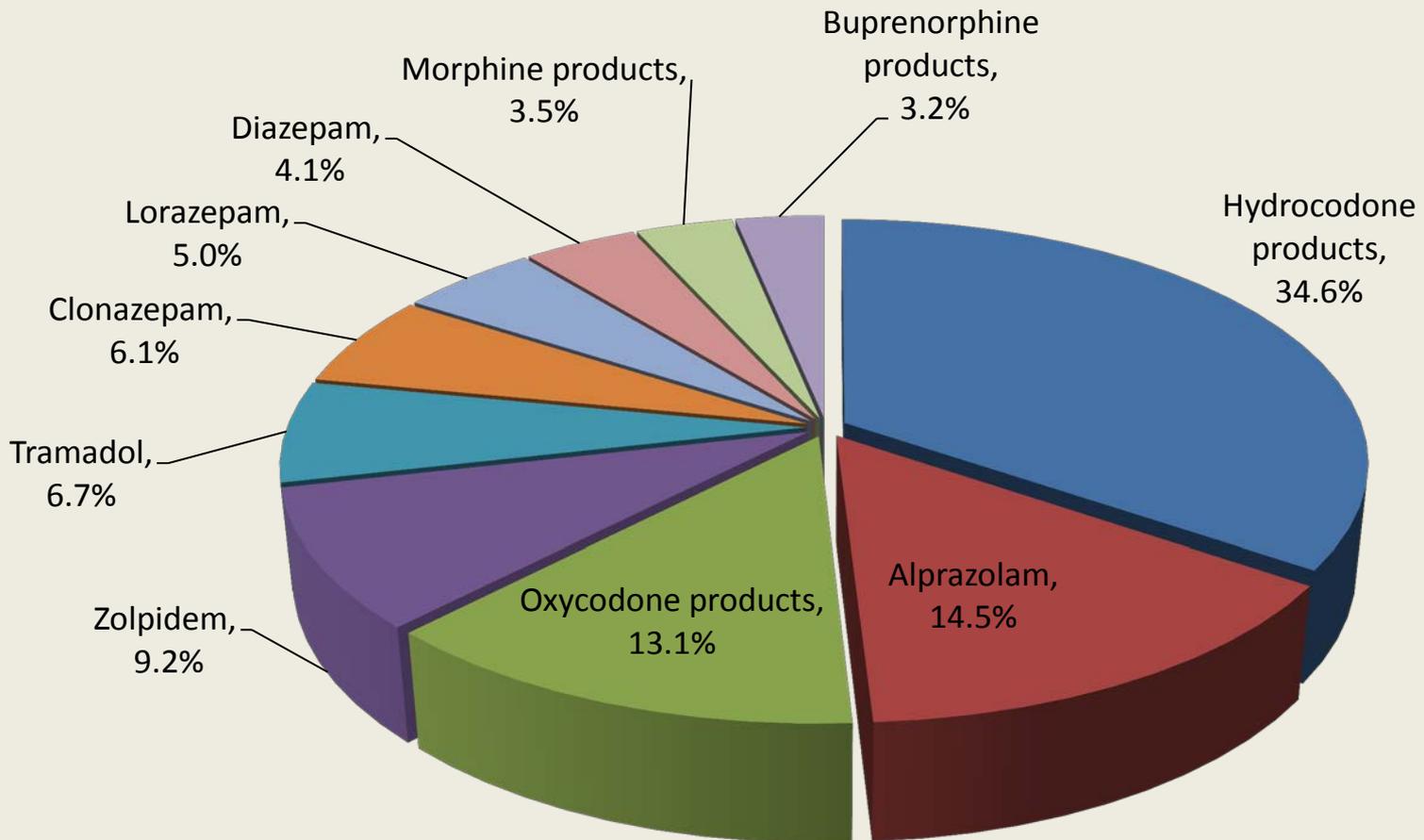
Alabama: 143 per 100 people

Tennessee: 143 per 100 people

West Virginia: 138 per 100 people

*Lowest-Hawaii: 52 per 100 people*

# TENNESSEE'S TOP 10 CONTROLLED SUBSTANCES: 2013



# TENNESSEE

## Deaths:

Over 1,000 people are dying in the state every year.

## Children:

50% of the children in DCS care are there because of parental drug abuse.

Over the past decade, there has been a ten-fold rise in the incidence of babies born with Neonatal Abstinence Syndrome.

## Healthcare Costs:

ER visits for overdoses have increased 40% from 2005-2010.

Estimated cost of providing drug treatment to Tennessee drug abusers living below the poverty line is \$28 million.

## Crime:

Drug-related crimes have increased 33% from 2005-2012.

## Lost Productivity:

Estimated cost of lost productivity due to prescription drug abuse was \$143 million in 2008. Adjusted for inflation it would be close to \$160 million now.

# FEDERAL SYSTEM

Controlled Substances Act of 1970

Closed System

DEA license – manufacture, distribute, dispense

Enforcement

DEA - administrative

- diversion

- criminal enforcement



# PRESCRIPTIONS

**Lawful or Unlawful?** - Title 21 C.F.R. § 1306.04

A prescription for a controlled substance to be effective must be issued *for a legitimate medical purpose* by an individual practitioner *acting in the usual course of his professional practice*. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription.

# ILLEGAL DISPENSING OR DISTRIBUTING

21 U.S.C. § 841 – Except as authorized . . . , it shall be unlawful for any person to distribute or dispense a controlled substance.

- doctors, providers, pharmacists, others

## Punishment

-Schedule II – 0-20 years; \$1-5 million

-Schedule III – 0-10 years; \$500,000 – 2.5 million

-Schedule IV – 0-5 years; \$250,000 - \$1 million

# UNLAWFUL DISPENSING

Inappropriate/Over Prescribing

Knowledge of Redistribution

Lax/careless Rx Practices

Dr. Shoppers

Prescription Rings



# CONSPIRACY

Advantages – time frame, jurisdiction, relevant evidence, coconspirator liability



# WILLFUL BLINDNESS

No one can avoid responsibility for a crime by deliberately ignoring the obvious. If you are convinced that the defendant deliberately ignored a high probability that drugs were being illegally distributed, then you may find that he had knowledge of the crime.

But to find this, you must be convinced beyond a reasonable doubt that the defendant was aware of a high probability that drugs were being illegal distributed, and that the defendant deliberately closed his eyes to what was obvious. Carelessness, or negligence, or foolishness on his part is not the same as knowledge, and is not enough to convict.



# SENTENCING

## Oxycodone - (ex. 30 mg)

10 pills = 6-12 months

100 pills = 21-33 months

1,000 pills = 63-78 months

10,000 pills = 121-151 months

100,000 pills = 188-235 months

(more for death, serious injury, aggravating role, livelihood, maintaining premises, minor or elder)

# PAIN CLINIC "CUSTOMERS"



# U.S. V. LANG

## Superior One

December 2010 – July 2011 (4 locations)

\$2 million cash

24 - 40 kilos oxycodone

## Primary Care

August 2011 – June 2012 (2 locations)

\$2 million

28.5 - 45 kilos oxycodone



# Superior One Medical

## RULES!

- ① Do not stand around in groups on sidewalk or in parking lot!
- ② Do not run to or from your car, if you do no refund!
- ③ Once you enter and check in, you can NOT go out in front door, unless you're leaving! All smokers go to back.
- ④ Throwing down any trash will be seen on cameras and you will pay.
- ⑤ If you are a first time client, welcome listen and we will get to you.
- ⑥ NO FL. (or) LA. I.D.'s, medical records are fine from there, but not your I.D.
- ⑦ Wait in your car until we open the door at (9am)

# U.S. V. LANG

Payment: Cash/Money Orders – No insurance

Unprofessional appearance: Owners, location, signs, advertising, promotional schemes; armed guards, open drug use

Customers: Young, no apparent injuries, addicts, traveled in groups, staff, manner of treatment

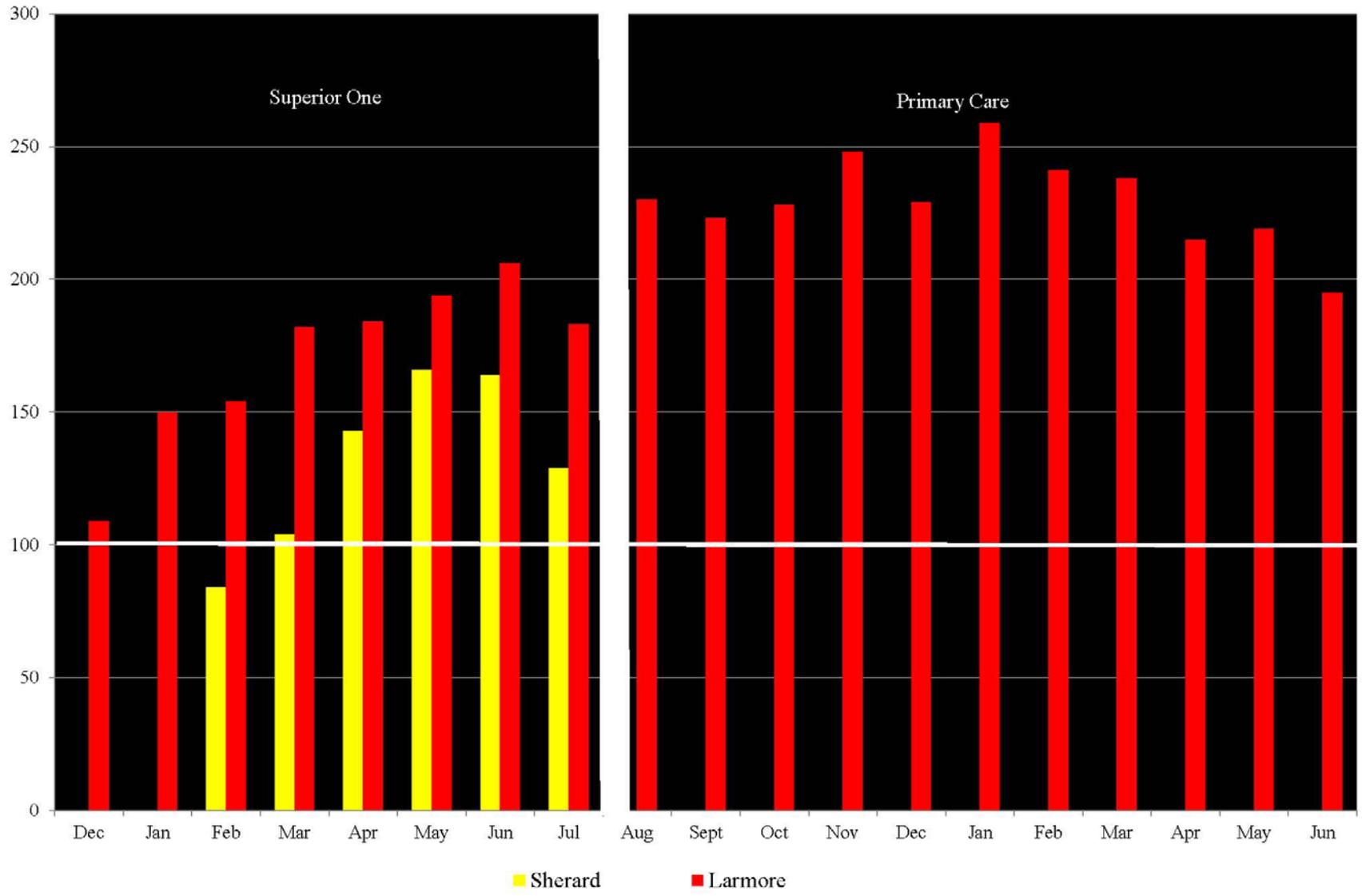
Volume: Clinic packed, long waits

Procedures: Scant medical records, exams, drug tests ignored; PMP not checked, sham therapies

Providers: Amounts and prescribing patterns; state “top ten” prescribers

Complaints: Neighbors, pharmacies

# Customer Average Daily MED



## U.S. V. LANG

Barbara Lang: Jury convicted of 21 offenses

– 3,360 months

Faith Blake: Pled Guilty to 3 offenses

– 600 months

Charles Larmore: Pled Guilty to 2 offenses

– 324-405 months

Dr. Jerome Sherard: Pled Guilty to 2 offenses

– 210-262 months

# RED FLAGS

Cash only

Traveling customers

Unexplained increase in sales

Large percentage of total sales

High dose amounts

Demand for fast-acting drugs

Drug combinations

New business/changing locations

Ignoring regulatory/law enforcement concerns

Locations – no legitimate reason for sales volume

Pharmacies located in or associated with pain clinics/doctor's offices



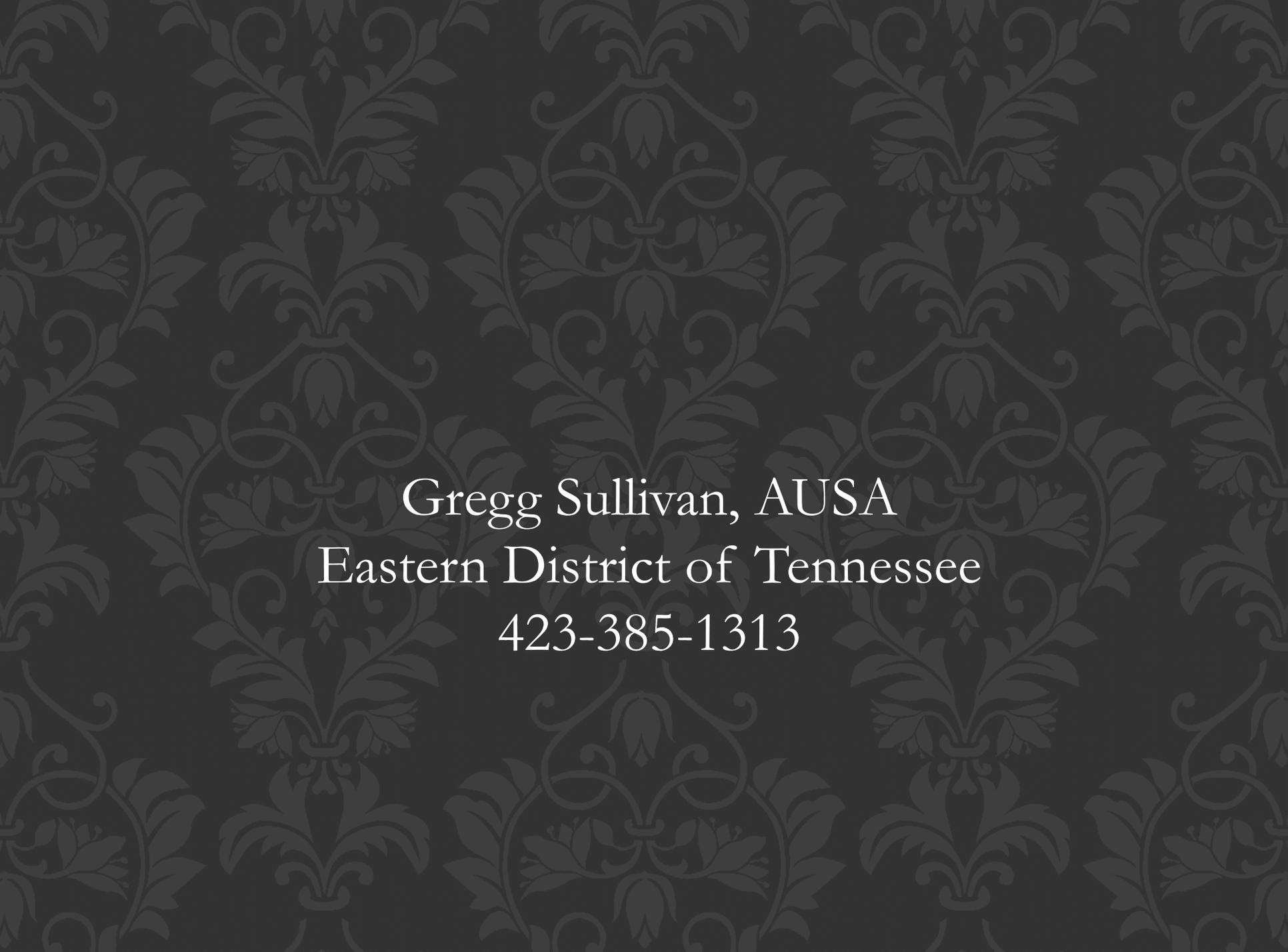
# DRUG TRENDS

Prescription Pills to Heroin

Opana (Oxymorphone) – “Panda” “Panda Bears”  
“Going to the Zoo” - very popular. Linked to largest HIV outbreak in Indiana (100 cases)

Codeine – “Purple Drank,” “Lean,” “Sippin,” and  
“Dank.” - mixed with juice or Hi-C. Popular with kids

Erowid.Org – source for information about recreational drugs and drug use



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