

Briefing Paper Study Session

Division & Department:	City Council
Subject:	A resolution requesting that the Spokane City Attorney provide to the City Council an analysis and recommendation concerning possible legal action against the manufacturers and distributors of addictive opioid medication.
Date:	May 13, 2019
Contact (email & phone):	bstuckart@spokanecity.org ; 509-625-6258
City Council Sponsor:	Ben Stuckart & Breean Beggs
Executive Sponsor:	N/A
Committee(s) Impacted:	Public Safety; Finance & Administration; Urban Experience
Type of Agenda item:	Resolution
Alignment: (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	Strategic Plan
Strategic Initiative:	Safer Community; Our Most Vulnerable; Affordable Services
Deadline:	Will file after committee
Outcome: (deliverables, delivery duties, milestones to meet)	Analysis and recommendation from City Legal on possible legal action against the manufacturers and distributors of addictive opioid medication.

“As the opioid crisis continues to intensify, a multi-pronged approach to addressing this very serious national issue must be implemented. Holding accountable those who recklessly manufacture and peddle these narcotics is an important step towards resolving this widespread abuse of the vulnerable.”

Craig Meidl, Spokane Police Chief

What are opioids?

Prescription opioid medication is generally used to treat moderate to severe pain. Commonly prescribed opioids include hydrocodone (*Vicodin*), oxycodone (*OxyContin* & *Percocet*), codeine, and fentanyl (National Institute of Drug Abuse, 2018). Opioids work by blocking pain signals sent to the brain which then releases the dopamine that creates feelings of euphoria. Side effects of opioids include respiratory depression, nausea, and paranoia (Hooten, 2018). The majority of opioids prescribed in Spokane County are hydrocodone (Spokane Regional Health District, 2018). More than 20% of patients prescribed opioids misused them (Medical Reserve Corp of Eastern Washington, 2019).

Heroin is an illegal opioid drug processed from morphine. Heroin and prescription opioids are molecularly similar and result in similar brain responses. According to a study by CM Jones and the Center for Disease Control and Prevention, more than 80% of heroin users in 2008-2010 used prescription opioids for non-medical use prior to their heroin use (Jones, 2013). Studies also show that

some opioid users turn to heroin as a cheaper alternative to prescription opioids (Cicero, Ellis, Surrat, & Kurtz, 2014). Black tar heroin, manufactured mostly in Mexico, is the most common type of heroin in Washington (Medical Reserve Corp of Eastern Washington, 2019).

Fentanyl is a synthetic opioid that is much more potent than morphine and heroin. In 2009, a Spokane man was arrested for stealing fentanyl from senior facilities; he even removed the fentanyl patches actively in use by patients. This man called fentanyl “the most addictive drug I’ve ever done” (Lawrence-Turner, 2009). Fentanyl is sometimes added to counterfeit pills to make it look like common prescription opioids, greatly increasing the risk of accidental overdose (Nadvornick, 2018).

Other synthetic opioids include naloxone, tramadol, and carfentanil. China is one of the largest producers of chemicals necessary to manufacture methamphetamine and synthetic opioids. China manufacturers and ships a majority of the fentanyl found in the United States (Knierim, 2018).

Prescription Opioid Manufacturers

[Purdue Pharma](#) is a privately held pharmaceutical company who engaged in reckless marketing and promotion of *Oxycontin*, a Schedule II narcotic, over a period of more than twenty years helped lead to the opioid epidemic facing Spokane. Purdue Pharma’s aggressive sales campaign and manipulation of scientific studies changed the prescribing habits of physicians and misled physicians and the public about the addictive nature of their pills. Much of Purdue’s data to prove the purported non-addictiveness of *Oxycontin*, was based on a 1980 five sentence letter to the editor¹ published in a medical journal (Quinones, 2015). In 2007, Purdue pled guilty to criminal charges of misbranding *OxyContin*. Still, after their guilty plea, the sales of opioids by Purdue rose. Today, Purdue Pharma generates more than \$2 billion annually for their sale of *Oxycontin* (Spokane County v. Purdue Pharma, 2018). Washington State Attorney General Bob Ferguson (and the City of Seattle [separately](#)) filed a [lawsuit](#) against Purdue Pharma on September 28, 2017 for “embarking on a massive deceptive marketing campaign and convincing doctors and the public that their drugs are effective for treating chronic pain and have a low risk of addiction, contrary to overwhelming evidence” (Aho, AG Ferguson sues one of the nation’s largest opioid manufacturers over state’s opioid epidemic, 2017).

Other prescription opioid manufacturers include (Spokane County v. Purdue Pharma, 2018):

- Endo, with 2018 revenues over \$2.9 billion dollars, began selling a generic version of *OxyContin* in 2005. They were also the manufacturers of *Opana ER*, removed from the market in 2017.
- Janssen (owned by Johnson & Johnson), manufactured the fentanyl patch known as *Duragesic* and *Nucynta ER* used for moderate chronic pain.
- Cephalon, acquired by Teva, manufactured fentanyl pills and lozenges known as *Fentora* and *Actiq* respectively. Cephalon pled guilty to criminal charges for misleading marketing of *Actiq* and other drugs in 2008.
- Actavis, a company combined with Allergan, is a seller of generic opioid medication.
- Mallinckrodt, with revenues over \$3.2 billion in 2017, markets and sells *Exalgo*, *Roxicodone*, and *Xartemis XR*. Mallinckrodt’s hydrocodone pills are also known by the street name “M’s” (Bernstein & Higham, 2017).

These manufacturing companies controlled advocacy front groups² and funded medical professionals to push opioids as a treatment for chronic pain. Some of these same medical professionals attempted to use their influence to shift opinions against the Washington State Legislature’s efforts to address the opioid epidemic in our state (Fine, Fishman, & Savage, 2010). Some doctors and pain clinics (known as “pill mills”) helped further the spread of opioids across the country, including Spokane. One pill mill based in Los Angeles trafficked more than 1 million pills to Everett (Spokane County v. Purdue Pharma, 2018). The evidence is clear that Purdue Pharma and other opioid medical manufacturers targeted marketing and sales efforts to pill mills and to physicians known to overprescribe opioids. These sales

¹ Addiction Rate in Patients Treated with Narcotics – Jane Porter and Herschel Jick, MD, <https://www.nejm.org/doi/10.1056/NEJM198001103020221>

² American Pain Foundation; American Academy of Pain Medicine; Pain & Policy Studies Group

professionals even guided Washington state doctors to prescribe more opioids even when this policy conflicted with Washington state guidelines (Spokane County v. Purdue Pharma, 2018).

Prescription Opioid Distributors

In 2008, three Fortune 15 companies [McKesson](#), [Cardinal Health](#), and [AmerisourceBergen](#) shipped enough opioid pills to Spokane County to supply every resident with a prescription (Aho, Ferguson: Distributors Ignored Red Flags While Pouring Staggering Amounts Of Opioids Into Washington, 2019). That same year, 89 Spokane County residents lost their lives to opioids – the largest number of opioid deaths on record in a single year in the county. Washington State Attorney General Bob Ferguson filed a [lawsuit](#) against these companies on March 12, 2019, alleging these companies shipped oxycodone, fentanyl, hydrocodone, and other prescription opioids into Washington when they knew (or should have known) the pills would end up being abused by addicts and distributed by drug dealers. In all, these companies shipped more than 2 billion pills to Washington state between 2006 and 2014 (Aho, Ferguson: Distributors Ignored Red Flags While Pouring Staggering Amounts Of Opioids Into Washington, 2019). These companies, although repeatedly fined for failing to follow Drug Enforcement Agency rules, collectively earned over \$481 billion dollars in revenue in 2018 (Fortune, 2019).

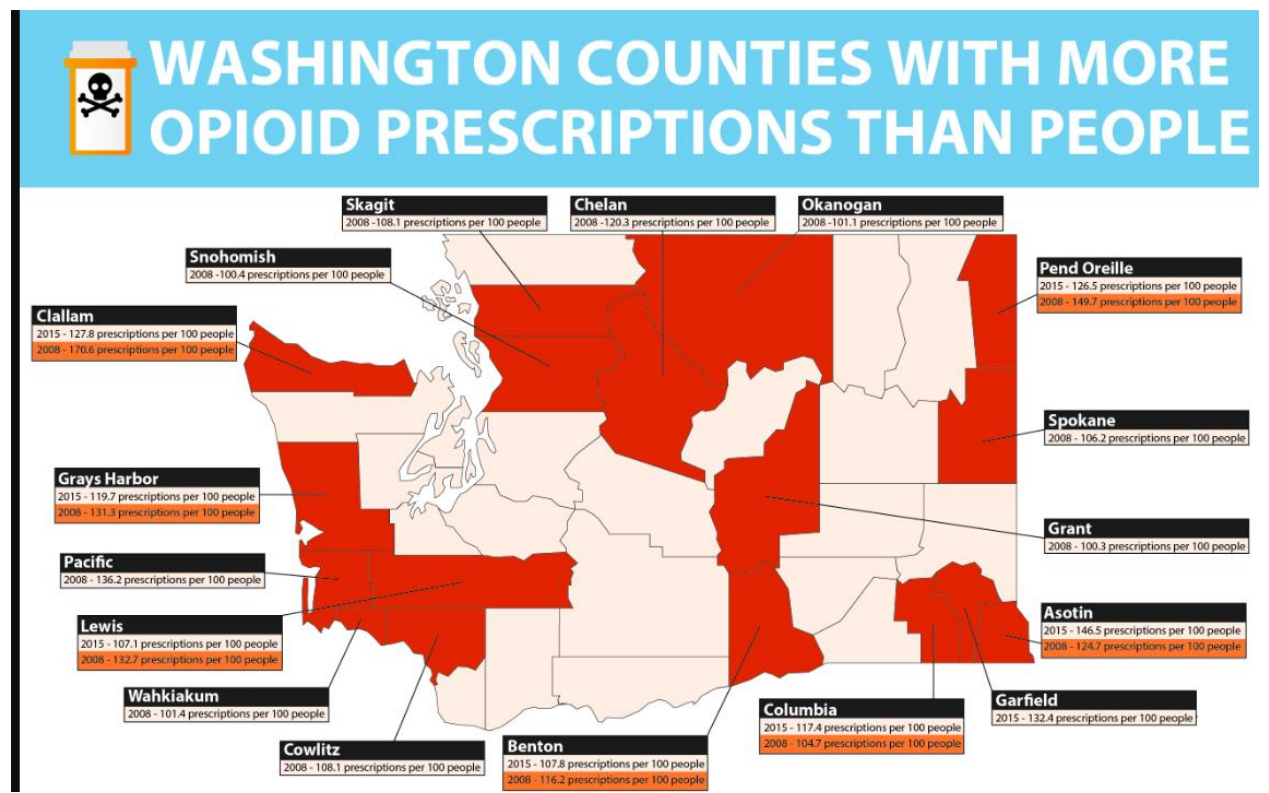
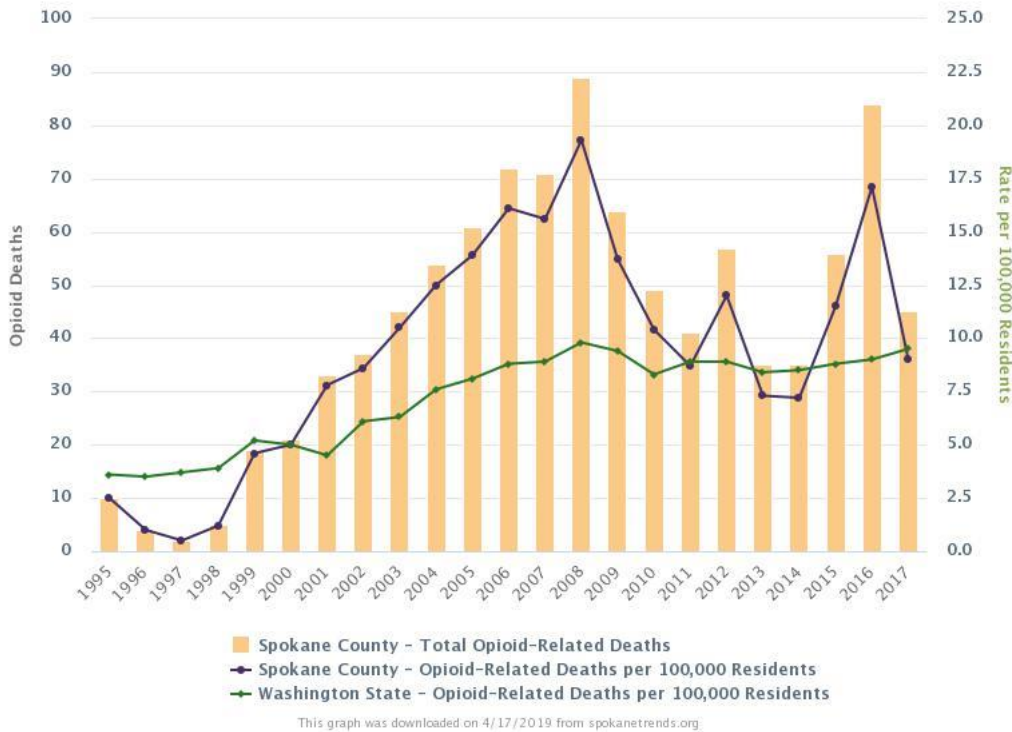


Figure 1 Office of the Washington Attorney General/Center for Disease Control & Prevention

Local Health Impacts of Opioid Abuse

Between 2012 and 2017, more than 250 Spokane County residents lost their lives to opioid overdoses (Office of the Medical Examiner, 2017). Opioids have killed more Washingtonians than car accidents and firearms over the last decade (Aho, Ferguson: Distributors Ignored Red Flags While Pouring Staggering Amounts Of Opioids Into Washington, 2019).

5.1.7 Total Opioid-Related Deaths and Rate per 100,000 Residents



Spokane County Accidental Deaths from Opioids 2014-2018 (Spokane County Medical Examiner)

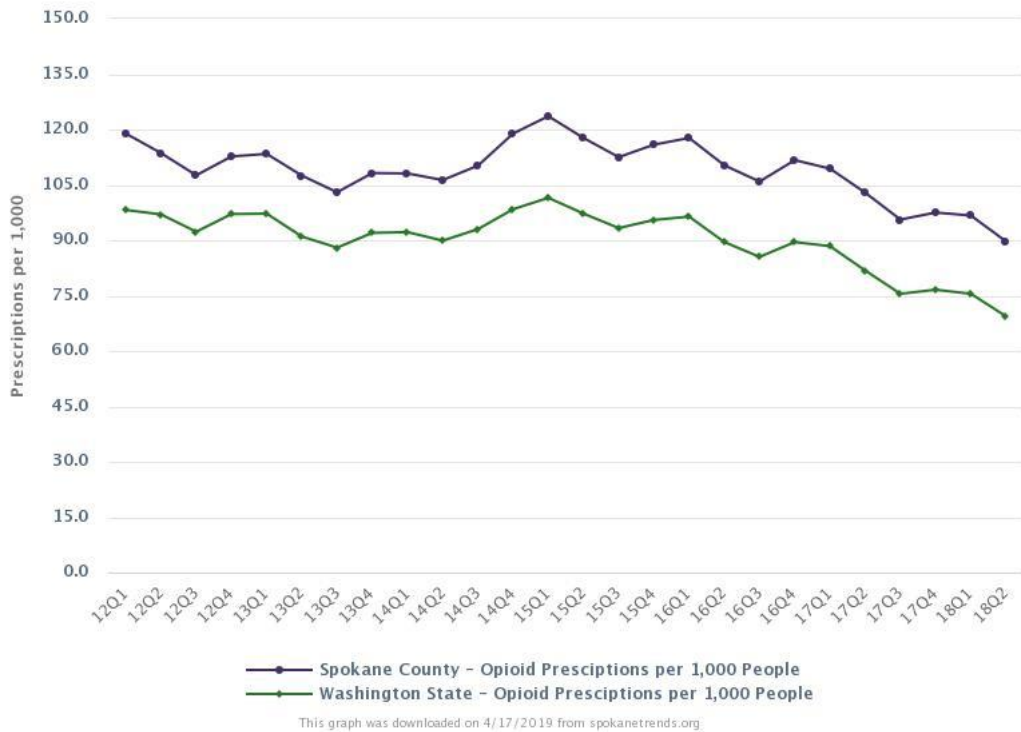
	Hydrocodone	Oxycodone	Methadone	Morphine	Heroin
2012	15	9	18	Unknown	2
2013	6	8	11	11	5
2014	13	12	9	7	7
2015	11	10	8	14	22
2016	14	16	15	15	25
2017	6	7	7	7	16

The 2016 Spokane Regional Health District’s report, *Opioid Overdose & Misuse*, revealed that one in 20 high school students in Spokane County used an opioid medication to get high in the last 30 days (Spokane Regional Health District, 2018). The report also found opioid abuse is more likely among men, people who are low-income, or those with low education levels. Spokane Regional Health District Needle Exchange program data also shows American Indians/Alaska Natives are overrepresented in the program as compared to their overall population percentages (Spokane Regional Health District, 2018).

From 2012 to 2016, heroin overdose deaths in Spokane County increased by 430%, from 1 per 100,000 residents to 5.3 per 100,000. During that same period, Spokane Regional Health District Needle Exchange program users indicated heroin as their preferred drug of choice (Spokane Regional Health District, 2018). Heroin has been the leading cause of accidental opioid deaths since 2015, however non-heroin opioids (illicit or prescribed) combined contribute to more deaths overall. Spokane Police Officers indicate they have seized heroin up to 80% pure. Heroin this pure can quickly lead to an overdose (Alexander, Opioid deaths are focus of concern in Spokane, but new law could help, 2016).

Although the rate of opioid prescriptions are falling, the rate of opioid prescriptions for Spokane County still outpace the statewide prescription rate based on Washington State Department of Health Prescription Monitoring Program data. In fact, the rate of opioid prescriptions in Spokane County has outpaced King, Pierce, Snohomish, Clark, and Thurston Counties since 2012.

5.1.8 Recipients of Opioid Prescriptions per 1,000 Residents



Importantly, the reduction in opioid prescriptions doesn't end the dependence on the drug for Spokane residents. Dr. Bob Lutz, Spokane Regional District Health Officer explains, "If you don't have access to a medication that you have become addicted to, then you will find a similar medication that's, unfortunately, often times on the street" (Nadvornick, 2018).

Opioid-related hospitalizations in Spokane County increased significantly from 2000 to 2016 and outpaced the Washington state hospitalization rate for heroin and methadone in 2016. The total charges for non-fatal opioid overdosing hospitalizations between 2012 and 2016 was \$15.8 million dollars (Spokane Regional Health District, 2018).

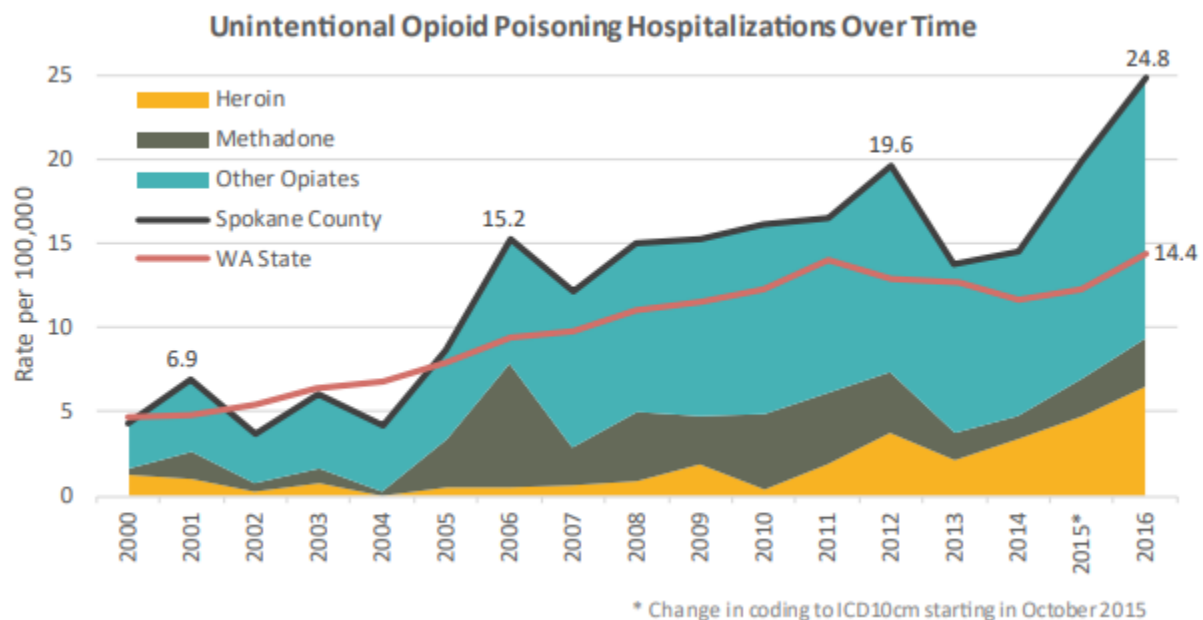


Figure 2 Spokane Regional Health District

Spokane response to opioid epidemic – selected actions

The Spokane Regional Health District’s [Opioid Treatment Program](#) uses a “medication-assisted approach in which individuals experience a decrease in withdrawal symptoms and cravings typically associated with opioid use (Spokane Regional Health District, n.d.). The program serves nearly 1,000 people.

The Spokane Regional Health District also provides [needle exchange services](#) which lowers the risk of HIV and Hepatitis B and C transmissions. The Spokane Regional Health District received a grant from the Center for Studies for Addiction and University of Washington Alcohol Drug Abuse Institute for [Narcan](#) kits in 2016. Since 2017, Narcan has reversed 257 overdoses at the SRHD needle exchange. The SRHD’s Medical Reserve Corp has provided trainings to Spokane County agencies on the use of Narcan including training the Spokane Police Department which then used Narcan to save several Spokane citizens suffering from opioid overdoses (Van Tassel, 2017). All Spokane Police Officers are equipped with Narcan (Hanrahan & Riordan, 2019). Spokane Firefighters used Narcan more than, 1,400 times between 2014 and 2017 (Ryals, 2017). Overdose victims are legally protected in Washington state (Medical Reserve Corp of Eastern Washington, 2019).

Spokane Parks and Recreation staff have seen an increase in the number of needles found in City parks. Spokane Parks and Recreation has installed safe needle disposal boxes in some park restrooms to reduce the number of needles found in the parks (Worthington, 2019).

Spokane Public Libraries, after paying \$800 per week in plumbing costs for needles flushed down toilets, installed blue lights which are used to deter drug users from finding veins. Spokane Public Library Director Andrew Chanse explained that the use of drugs in the City’s libraries is a symptom of the larger opioid epidemic (White, 2019).

Other Agency Actions

The following selected agencies are pursuing legal action against the manufacturers and/or distributors of prescription opioids: [Spokane County](#), City of Tacoma, City of Seattle, City of Olympia, City of Kent, Pierce County, Thurston County, Clark County, Whatcom County, Walla Walla County, Whitman County, and Kitsap County.

Resolution Actions

- This resolution requests the City Attorney provide to the City Council an analysis of the feasibility and a recommendation of pursuing legal action against opioid manufacturers for actively misleading Spokane citizens about the addictive nature of their drugs, and distributors for failing to act on federally-required safeguards that allowed thousands of suspicious orders of opioids to be shipped without notification to law enforcement.
- This resolution also recognizes the opioid epidemic as a clear link between prescription opioid abuse and the proliferation of illicit heroin and fentanyl use, and recognizes the epidemic’s impact on Spokane and its citizens.

Budget Impact:

TOTAL COST: N/A

Approved in current year budget? Yes No N/A
 Annual/Reoccurring expenditure? Yes No N/A

If new, specify funding source:

Other budget impacts: (revenue generating, match requirements, etc.):

Operations Impact:

Consistent with current operations/policy? Yes No N/A
 Requires change in current operations/policy? Yes No N/A

Specify changes required: Known challenges/barriers: None

Resources

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