

EXECUTIVE ORDER

ADMINISTRATION OF BALTIMORE CITY OPIOID RESTITUTION FUNDS

WHEREAS, opioid overdoses are a national crisis responsible for more than 80,000 deaths annually in the United States.¹

WHEREAS, Baltimore has been disproportionately impacted, as more than half a billion opioid pills permeated the Baltimore area between 2006 and 2019, driving an increase in overdose deaths.²

WHEREAS, public health experts have estimated that more than 80% of Baltimore's opioid use disorder cases between 2010 and 2021 began with prescription opioids, leading residents to turn to illicit drugs.³

WHEREAS, a significant amount of illicit drugs now include fentanyl and xylazine. Fentanyl is a synthetic opioid which is 50 times more potent than heroin and 100 times stronger than morphine.⁴ Xylazine is a veterinary sedative, not an opioid, that is not approved for use in people, can cause severe wounds, and is especially dangerous when combined with opioids such as fentanyl.⁵

WHEREAS, Baltimore City makes up 9% of Maryland's population but now represents 44% of Maryland's overdose deaths through the first seven months of 2024.⁶

WHEREAS, more than 400 Baltimore City residents lost their lives to overdose in 2024, with an average of more than 2 overdose deaths per day.⁷

WHEREAS, the opioid epidemic and overdose deaths have had a devastating effect on communities, neighborhoods, families, and residents of Baltimore City.

WHEREAS, overdose deaths are preventable and access to substance use disorder services, as well as educating the community on how to help prevent overdose deaths, can reduce the number of deaths and improve the quality of life of residents.

WHEREAS, it is in the best interests of the City and its residents that its programs and policies equitably distribute funds to support substance use disorder services for individuals and communities impacted by the overdose crisis.

¹ https://www.cdc.gov/nchs/pressroom/nchs_press_releases/2024/20240515.htm.

² <https://www.baltimoresun.com/2024/08/02/billion-opioid-pills-crisis-baltimore/> (citing the City's public court filings).

³ <https://www.baltimoresun.com/2024/08/02/billion-opioid-pills-crisis-baltimore/> (citing the report of the City's trial expert, Brendan Saloner, PhD, a Bloomberg Professor of American Health in Addiction and Overdose in the Department of Health Policy and Management).

⁴ <https://www.cdc.gov/stop-overdose/caring/fentanyl-facts.html>.

⁵ <https://www.cdc.gov/overdose-prevention/about/what-you-should-know-about-xylazine.html>.

⁶ <https://health.maryland.gov/dataoffice/Pages/mdh-dashboards.aspx#Overdose>.

⁷ <https://health.maryland.gov/dataoffice/Pages/mdh-dashboards.aspx#Overdose>.

WHEREAS, increases in overdose-related deaths and the hardships that they cause communities across the City, among all demographic groups, threaten the well-being of the entire City. Furthermore, the overdose crisis is having a particularly severe impact on specific populations, including older adults, individuals involved with the criminal justice system, and Black individuals.

WHEREAS, the City Solicitor's Office has initiated legal actions against various pharmaceutical manufacturers and distributors for their role in creating the opioid epidemic in Baltimore City by failing to take reasonable steps to prevent diversion of their highly addictive prescription opioids.

WHEREAS, the City signed onto a statewide settlement with Walmart to resolve claims regarding its role in the opioid crisis. Baltimore City's portion is approximately \$7.2 million.

WHEREAS, the City received just over \$1,000,000 from the Mallinckrodt bankruptcy settlement.

WHEREAS, the City reached settlement agreements with Allergan, Cardinal Health, and CVS totaling \$242.5 million secured to date.

WHEREAS, the Mayor anticipates that monetary recoveries will continue through pending cases against manufacturers and distributors for causing and perpetuating the opioid crisis.

WHEREAS, restitution funds will be used for overdose abatement programming, which may include but is not limited to:

- Harm reduction, including social determinants of health;
- Treatment and recovery, including wrap-around services;
- Education and preventing new initiation of opioid use disorder; and
- Addressing needs of special populations.

NOW THEREFORE, I, Brandon M. Scott, Mayor of the City of Baltimore, by virtue of the authority vested in me in Art. IV, Section 4 of the Baltimore City Charter do hereby issue the following Executive Order:

1. The City will establish a segregated account, "the Baltimore City Opioid Restitution Fund," (hereafter referred to as "the Fund") to manage proceeds received from opioid litigation. The "Fund" will be established in the city treasury. The Fund shall operate as a dedicated fund to be administered by the Mayor's Office of Recovery Programs (hereafter referred to as "MORP"). The Department of Finance is authorized to create sub-funds or sub-accounts as may be necessary to appropriate or implement the purposes of this Executive Order.
 - a. Monies in the Fund shall be spent only for permissible expenditures for substance use disorder abatement purposes, upon the recommendation of

the Restitution Advisory Board outlined in Section 6 of this order and with final approval from the Mayor, such as:

- i. Programs, services, and supports that address substance use prevention, treatment, recovery, and harm reduction, including the social determinants of health, and that redress or prevent other harms caused by the opioid epidemic;
 - ii. Infrastructure required for such programs, services, and supports;
 - iii. The oversight, planning, assessing and monitoring of programs, as well as expenses associated with managing, investing, and disbursing monies in the Fund; and
 - iv. Evaluations of effectiveness and outcomes reporting for programs, services, supports, and resources for which monies from the Fund were disbursed.
 - b. Funding decisions will be made upon the recommendation of the Restitution Advisory Board, reviewed by the Mayor's Overdose Cabinet, and finalized upon approval from the Mayor.
 - c. Monies in the Fund shall be disbursed to both governmental and non-governmental entities for City programs or community-based programs.
 - i. Programs seeking funds will be required to submit an application and/or respond to a notice of funding availability.
 - ii. Departments seeking funds for city programs may request funding through the annual budget process along with sufficient justification.
 - iii. Applicants and fund requests are required to outline adequate plans for data tracking and reporting that align with the requirements outlined in the notices of funding availability.
 - d. Fund disbursements to community-based organizations shall be made by the Department of Finance through MORP upon the recommendation of the Restitution Advisory Board, review by the Mayor's Overdose Cabinet, and final approval by the Mayor. The Department of Finance shall not make or refuse to make any disbursement allowable under this subsection without the approval of the Mayor.
2. The Fund will be used to establish a Trust that will sustain the impact of these funds in our community for at least 15 years.
 - a. No less than 5% of the balance from the Trust will be appropriated in the annual budget through the Ordinance of Estimates and/or through supplemental budget actions.
 - b. Interest earned from the Trust will be used only for substance use abatement and will not be returned to the general fund, unless otherwise approved by the Board of Estimates.
 - c. A five-person board will be established and appointed by the Mayor to oversee the Trust.
 - d. Proceeds in the fund may be used to obtain external financial advisory services to guide the investment and financial management of the Trust.
3. To ensure restitution funds are utilized in a manner in adherence with Section 1 of this Executive Order and in a manner that supports the City's coordinated efforts to

reduce overdose deaths and address hardships the opioid crisis has caused, the City will publish the following key documents:

- a. A comprehensive city-wide overdose reduction strategy based on evidence at least once every two years to guide overall efforts to reduce overdoses. This plan may be updated in part between major updates.
 - b. A substance use community needs assessment at least once every two years to inform use of funding as it relates to the expansion of existing services, closing gaps in existing services, or identifying new needs.
 - c. A plan at least once every two years for robust and ongoing community engagement to ensure regular opportunities for people, including people affected by substance use disorders, to provide input to the city. This plan may be updated in part between major updates.
 - d. A transparency and accountability plan at least once every two years for the opioid restitution funds. This plan may be updated in part between major updates. The plan will include a public-facing dashboard that provides information on programs receiving funds that will be updated at least annually.
 - e. An annual report submitted to the Mayor and City Council on funded programs and program performance.
4. The Mayor's Office will create a new position, the Executive Director of Overdose Response (the Executive Director), appointed by the Mayor and reporting to the Chief Administrative Officer (CAO), to lead and champion the City's strategic response to the overdose epidemic.
- a. The duties of the Executive Director may include, but are not limited to:
 - i. Coordinating the citywide response to the overdose epidemic including working with the Health Department, Police, Fire/EMS, the Department of Public Works (DPW), the Department of Housing and Community Development (DHCD), and the Mayor's Office of Homeless Services (MOHS) among other City agencies.
 - ii. Serving as Co-Chair of the Restitution Advisory Board (RAB)
 - iii. Attending Overdose Fatality Review and Overdose Prevention Team meetings at the Health Department.
 - iv. Coordinating with the Mayor's Office of Recovery Programs (MORP), which is the office that will distribute the opioid restitution funds in coordination with the Notice of Funding Availability (NOFA).
 - v. Leading, preparing, and facilitating the Mayor's Overdose Cabinet meetings, including meeting with the Overdose Cabinet and Mayor to determine and finalize the overdose strategy, community engagement plans, needs assessment, requests for proposals for funding, final funding allocations, and transparency and accountability plan (including public facing dashboards).
 - vi. Implementing the transparency and accountability plan, in coordination with the Mayor's Office of Recovery Programs and the Health Department, including a public facing dashboard.

2. The Health Commissioner or designee as non-voting Co-Chair;
 3. The Fire Chief or designee as a non-voting member;
 4. The CEO of the local behavioral health authority;
 5. Two members of the Baltimore City Council including:
 - a. The Chair of the Baltimore City Council's Health, Environment, and Technology Committee or the Chair of any future committee responsible for the oversight of the City's public health apparatus and;
 - b. A member of the City Council nominated by the City Council President and agreed upon by the Mayor, with special consideration to members representing council districts most impacted by the overdose crisis or members with public health expertise;
 6. A designee from the Maryland Department of Health or a representative from the state's Overdose Response Advisory Council as appointed by the Governor;
 7. A designee from a Baltimore-based harm reduction organization;
 8. A practicing licensed addiction medicine specialist working in Baltimore City;
 9. A practicing licensed social worker working in Baltimore City;
 10. A public health practitioner or public health expert from a university in Baltimore City;
 11. A peer recovery specialist working in Baltimore City;
 12. At least 4 Baltimore City residents with lived/or living experience with substance use.
- iii. Membership may include additional members appointed by the Mayor to ensure the ability of the Board to perform its duties if any of the members defined in (ii) meet multiple qualifying criteria.
- d. The Board will meet monthly for at least the initial nine months and then at least quarterly.
 - i. All meetings of the Board shall be conducted in accordance with the Open Meetings Act.
 - ii. Meetings shall be called at the discretion of the Co-chairs of the Board.
 - iii. A majority of the voting members of the Board constitutes a quorum.
 - iv. All recommendations advanced by the Board are determined by a majority vote of the voting members present.
 - e. Each member of the Board who is not an officer or employee of the city is entitled to receive a stipend of not less than \$15,000 per year for service on the Board. Additionally, members may be reimbursed for reasonable and necessary expenses.

- f. Members must disclose to the Board, refrain from participating in discussions, and recuse themselves from voting on any matter before the Board if members have a conflict of interest.
 - g. Membership on the Board will be subject to the following limits:
 - i. Agency leads or representatives will not be subject to term limits;
 - ii. Non-City employees will have one-year terms and may reapply annually to serve up to three consecutive terms; and
 - iii. Individuals can be removed from the Board by the Mayor for repeated failure to attend meetings, to participate in the activities of the Board, or to otherwise perform their duties.
7. The Mayor's Office of Recovery Programs (MORP) will:
- a. Coordinate and manage Notices of Funding Availability;
 - b. Develop grant agreements with, disburse funding to, and provide grant monitoring and oversight to funded organizations in partnership with the Executive Director;
 - c. Publish annual reports on spending and maintain a public facing dashboard that provides performance data on programs receiving funds; and
 - d. Any other duties as deemed necessary by the Mayor.

General Provisions

8. Nothing in this executive order shall be construed to contravene any federal or state law or regulation or City Charter provision. Nothing in this Executive Order shall affect or alter existing statutory powers of any state or local agency or be construed to transfer or alter existing state or local authority
9. The Mayor reserves the right to rescind any or all parts of this Order or issue a new order revising this Mayoral Order, if this Order is not complied with or if it is in the public health interest of the citizens of Baltimore City to rescind or modify the Order.
10. If any provision of this Order or its application to any person, entity, or circumstance is held invalid by any court of competent jurisdiction, all other provisions or applications of the Order shall remain in effect to the extent possible without the invalid provision or application. To achieve this purpose, the provisions of this Order are severable.
11. This Executive Order shall take effect August 29, 2024.

IN WITNESS WHEREOF I HAVE
HEREUNTO PLACED MY HAND
AND THE GREAT SEAL OF THE
CITY OF BALTIMORE
THIS 29TH DAY OF AUGUST 2024.

BRANDON M. SCOTT
MAYOR
CITY OF BALTIMORE

ATTEST

CUSTODIAN OF THE CITY SEAL

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
BY THE BALTIMORE CITY LAW DEPARTMENT

EBONY M. THOMPSON
CITY SOLICITOR