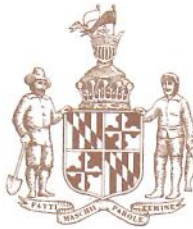


**SAMUEL I. "SANDY" ROSENBERG**  
*Legislative District 41*  
Baltimore City

Health and Government Operations  
Committee

*Chair*  
Government Operations and Estates  
and Trusts Subcommittee

*House Chair*  
Joint Committee on Administrative,  
Executive, and Legislative Review



**THE MARYLAND HOUSE OF DELEGATES**  
**ANNAPOLIS, MARYLAND 21401**

RESPOND TO OFFICE INDICATED

☐ *Annapolis Office*  
The Maryland House of Delegates  
6 Bladen Street, Room 365  
Annapolis, Maryland 21401  
410-841-3297 · 301-858-3297  
800-492-7122 Ext. 3297  
Samuel.Rosenberg@house.state.md.us

☐ *District Office*  
4811 Liberty Heights Avenue  
Baltimore, Maryland 21207  
410-664-2646

Testimony of Delegate Samuel I. Rosenberg  
Before the House Appropriations Committee In Support Of  
**House Bill 422**

**Opioid Restitution Fund – Office of the Chief Medical Examiner**

Madam Chair and members of the committee:

Maryland may have survived the high-water mark of the opioid crisis,<sup>1</sup> but the receding flood continues to leave a trail of devastation. The impacts of this epidemic have strained many institutions to the verge of fracture, but perhaps none so viscerally apparent as the Office of the Chief Medical Examiner (OCME).

Under Maryland's centralized medical examiner system, every death that is related to injury, homicide, suicide, drugs, minors, or individuals who are not attended by a physician at the time of death must be processed through the office in Baltimore City. Over 2,000 deaths attributed to opioids just in the last year have overwhelmed the OCME. Each life lost is a tragedy unto itself, but this backlog of bodies also threatens the vitality of our OCME.

After 17 years, Dr. David Fowler is leaving his leadership role in the OCME.<sup>2</sup> He attributes this decision in part to resource challenges related to the opioid epidemic. Indeed, between 2013 and 2017, Maryland exceeded national caseload standards for the number of autopsies performed per pathologist in a given year.<sup>3</sup> After the first quarter of fiscal 2017, the office was on target to exceed 325 autopsies per pathologist per year - the limit for maintaining accreditation.<sup>4</sup> Although the Office never lost accreditation, the challenges of maintaining staff levels to correspond with the catastrophic levels of fatalities persist to the present.

<sup>1</sup> Meredith Cohn, "Opioid overdose deaths in Maryland drop for first half of the year," *The Baltimore Sun*, Sep. 17, 2019.

<sup>2</sup> Meredith Cohn and Justin Fenton, "Long-serving chief of Maryland medical examiner's office steps aside amid high death toll" *The Baltimore Sun*, Nov. 26, 2019.

<sup>3</sup> Meredith Cohn, "Drug-related deaths overburden Maryland medical examiner's office" *The Baltimore Sun*, Apr. 15, 2017.

<sup>4</sup> *Id.*

Last session, the General Assembly created the Opioid Restitution Fund for the purpose of funneling settlement revenues from pharmaceutical companies into expenditures addressing the opioid crisis. The Fund may be used only for specific statutory purposes, such as improving access to medications like Naloxone, expanding residential treatment services, supporting opioid abuse prevention campaigns, and funding research on preventing opioid overdoses.

The OCME was not included in the list of potential beneficiaries of the Opioid Restitution Fund. Despite directly suffering from the effects of the crisis, as the law currently stands, the OCME may not receive assistance from the Fund.

House Bill 422 would correct this omission. This bill would make it clear that our hard-working medical examiner and the staff of the OCME are entitled to support from Maryland's Opioid Restitution Fund. The additional funding may help maintain adequate staffing levels to ensure continued accreditation.


Furthermore, these funds would eliminate the backlog of autopsies and ensure expedited criminal investigations. The remains of deceased loved ones would be quickly returned to their grieving family members for timely funeral arrangements.

I urge the committee to vote favorably on House Bill 422.

February 27, 2020



# Opioid overdose deaths in Maryland drop for first half of the year

 [baltimoresun.com/health/bs-hs-opioid-deaths-drop-20190917-7xmtee54abhkzejfiosb7izbdi-story.html](https://baltimoresun.com/health/bs-hs-opioid-deaths-drop-20190917-7xmtee54abhkzejfiosb7izbdi-story.html)

By Meredith Cohn

Maryland's opioid-related deaths dropped during the first half of the year, including those linked to fentanyl, according to new state figures that show a bit of relief from the overdose crisis that is still claiming close to 200 lives a month in the state.

There were 1,182 total drug and alcohol-related deaths from January through June, with almost 90% opioid related. That's down 150 from the 1,332 reported in the first six months of 2018, according to data released Tuesday by the Maryland Department of Health and the state's Opioid Operational Command Center.

While deaths related to heroin and prescription opioids have been dropping for some time, deaths related to fentanyl, the far more powerful synthetic opioid often substituted for or mixed into heroin, had been skyrocketing until this year. The number of fentanyl-related deaths dipped statewide for the first time this past winter.

The latest state health department report shows fentanyl-related deaths dropped 7.8% compared to the first half of 2018 and overall opioid overdose deaths were down 11.1%.

"Though the continued decline in fatal overdoses is welcome news, the heroin and opioid epidemic remains a crisis and we will continue to respond with all the tools at our disposal," said Gov. Larry Hogan in a statement. "The fight against heroin and opioid overdoses has torn apart communities and families throughout our state and across the nation. Together, we can and we must do more in order to save the lives of thousands of Marylanders."

Others agreed that the epidemic has not passed, including Dr. Yngvild Olsen, medical director of the Institutes for Behavior Resources Inc./REACH Health Services in Baltimore and co-author of the book "The Opioid Epidemic: What Everyone Needs to Know."

"The declines in opioid- and cocaine-related deaths are very welcome, but there are still too many people dying," Olsen said. "So, this is not a time to let up on efforts we know save lives. We also need to look more broadly at what is happening to people with addiction longer term, as the goal is not only to save, but also improve, lives."

Baltimore and Baltimore County recorded the most number of overall overdose deaths, with 484 and 187 deaths respectively in the first half of the year, though deaths declined 13% in the county while the city saw a slight increase of five deaths.

The Baltimore City Health Department did not respond to a request for comment.



Adrienne Breidenstine, spokeswoman for Behavioral Health System Baltimore, which oversees substance use and mental health treatment in the city, said the numbers may mean that more aggressive steps are needed to expand access to the system of care.

Breidenstine said the city and state should consider such moves as opening overdose prevention sites, which allow drug use in a monitored environment where the users can get connected to care providers. Several cities have proposed such sites, but they are not considered legal by U.S. authorities.

"This is not a time to let up on efforts we know save lives."

Dr. Yngvild Olsen, medical director of the Institutes for Behavior Resources Inc./REACH Health Services

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"The report is a look at 6 months compared to 6 months last year, and the numbers went down and that might be a great preliminary sign that some things we are doing are working, but we should be cautious with the numbers," Breidenstine said. "We have the rest of the year to go and Baltimore isn't seeing any decline. That's a signal we need to do more and take bolder steps."

Baltimore-area counties logged fewer overdose deaths though June this year than in the same period last year, including Anne Arundel, down nearly 27% to 104 deaths; Carroll, down 52% to 23 deaths; Harford, down 17% to 44 deaths; and Howard, down 26% to 17 deaths.

The state has been working to stem the overdoses and step up access to treatment since such deaths began mounting 10 years ago. Experts believe many people got their start on prescription painkillers, such as Oxycontin, the maker of which is now embroiled in litigation along with many other manufacturers, marketers and sellers over the companies' roles in the ongoing crisis.

Nationally, the U.S. Centers for Disease Control and Prevention reports that more than 700,000 people died between 1999 and 2017 from drug overdoses, including more than 70,000 in 2017. Overdoses are now the leading cause of injury-related death in the United States, with almost 68% involving a prescription or illicit opioid, according to the agency.

Maryland's Republican governor declared a state of emergency in response to the overdoses in 2017. Like other states, Maryland has expanded its Prescription Drug Monitoring Program that requires reporting of opioid prescriptions to prevent abuse. Lt. Gov. Boyd K. Rutherford also heads two panels aimed at addressing the issues, the Maryland Heroin and Opioid Emergency Task Force and the Inter-Agency Heroin and Opioid Coordinating Council.

There have been expansive efforts in Maryland, including Baltimore, to make naloxone, the overdose reversal drug, widely available without a prescription, as well as teach people how to use it.

"While we know there is still much work to be done with regard to this epidemic, the decline of heroin- and opioid-related deaths over the first two quarters of 2019 gives us hope that we are on the right track," Rutherford said in a statement.

The state health department report for the first half of 2019 also offered some other promising signs about substance abuse in Maryland.

The number of alcohol-related overdose deaths fell 18% to 175. The number attributed to alcohol alone dipped to 35, two fewer than in the same period of 2018.

Cocaine-related overdose deaths dropped 16% to 380, including just 41 related to cocaine alone, down from 52. Opioids such as heroin or fentanyl are sometimes mixed with cocaine in a dangerous drug cocktail known as a speedball.


And the number of deaths from the even more powerful opioid carfentanil, used as a large animal tranquilizer, seemingly evaporated in the past two years. After 46 deaths were reported in Maryland in the first six months of 2017, just one was reported in the same period last year and none through June of this year.

Federal authorities cracked down on carfentanil distribution when the drug, considered 5,000 times more potent than heroin and used in treating elephants, hippos and horses, started showing up on the streets.

*This story has been updated to correct the number of overdose deaths in Carroll and Harford counties. The Sun regrets the error.*



# Long-serving chief of Maryland medical examiner's office steps aside amid high death toll

 [baltimoresun.com/health/bs-hs-chief-medical-examiner-retires-20191126-lkk24h2aive3bbbqf53djb44u-story.html](https://www.baltimoresun.com/health/bs-hs-chief-medical-examiner-retires-20191126-lkk24h2aive3bbbqf53djb44u-story.html)

Meredith Cohn, Justin Fenton

As homicides and drug-related deaths continue their years-long rampage, Maryland's long-serving and well-regarded chief medical examiner said he plans to leave his post.

Dr. David Fowler has led the Office of the Chief Medical Examiner for the past 17 years, and confirmed to The Baltimore Sun that he will step down by the end of the year.

Fowler said resource challenges related to the opioid epidemic was a factor in his decision.

Those overdose-related deaths so overworked his staff that in 2017 the office was in danger of losing a national accreditation that had given strong credibility to evidence it gathered during autopsies. The rating is prized by prosecutors and valued by families whose bodies were examined in the office.

"There comes a time when I think having somebody who is new and establishes a new culture and re-establishes a relationship with the administration, the health department, et cetera, is a good thing," Fowler said in an interview.

Fowler is only the fourth person since 1939 to occupy the position.

"It's been an incredibly stable office," he said, "and I think that's a testament to the administrations and citizens who have put the resources in place."

Fowler said he's been a "bit of a squeaky wheel" at times and at some point his credibility could get "used up to some extent."

The office has seen a rapid increase in workload in recent years. Medical examiners are required to investigate deaths from injury, homicide, suicide and those that occur under unusual or suspicious circumstances or when they are not attended by a physician. In Maryland, this is about a third of all deaths, though most do not have full autopsies.

The office also alerts public health officials of injury trends and infectious diseases that could pose risks.

The office has added examiners over the years, but by 2013 each handled more than the national standard of 250 autopsies a year. By 2017, the average bumped over 325, a threshold that could put the accreditation in jeopardy. The volume also could cause delays in reporting findings and releasing bodies, which can be a burden for families and law enforcement.

State officials transferred two additional positions to the office after the excessive workload was publicly reported, but the positions proved tough to fill and keep staffed.



Over the years, Fowler also has dealt with space constraints that were alleviated when the office moved to a new facility in the West Baltimore neighborhood of Poppleton.

A panel called the Post Mortem Examiners Commission oversees the office. Members declined to comment on Fowler or the process of choosing a new chief.

Bruce Goldfarb, a spokesman for the medical examiner's office, didn't comment on the resignation, but said: "Everyone here from top to bottom has tremendous respect for Dr. Fowler. We couldn't ask for a better chief."

Others who worked with Fowler also said they were impressed by him, especially as he faced a record number of overdose deaths fueled in large part by the powerful synthetic drug fentanyl. The lethal drug is often mixed with or replaces heroin sold on the street.

Dr. Leana Wen, former Baltimore City health commissioner and a former commission board member, cited Fowler's "professionalism, dedication and tenacity" as he handled the onslaught of cases.

"Medical examiners are part of the public health system and also on the front lines of the opioid epidemic," she said. "Dr. Fowler faced enormous challenges with escalating numbers of people dying from overdose, particularly with the rise in deaths due to fentanyl."

Dr. Brian L. Peterson, a past president of the National Association of Medical Examiners who has worked with Fowler, said he has served "enthusiastically and admirably" during an opioid crisis that "is the health crisis of our time."

The Maryland office was once of many across the country that face excessive workloads, the association has said. It did not end up losing the association's accreditation.

"Maryland's citizens should be grateful for his energy, leadership and devotion to a field outgunned, sometimes literally, by volumes of work that are predictable only in the sense that there seem to be increases every year," Peterson said.

Baltimore alone has logged more than 300 murders for the fifth year in a row. Overdose deaths eclipsed that tally, with 1,182 drug and alcohol-related fatalities statewide in the first half of 2019, or more than 200 a month.

Fowler said he would not be involved in naming his successor but was willing to offer input.

When he leaves the office, he said he plans to travel with his wife and remain involved in private consultations. At times during his tenure, he worked outside the state occasionally helping other jurisdictions develop capital spending plans.

To cope with the challenges, the office needed to get creative, he said. That included having board-certified forensic pathologists perform autopsies on weekends. The office handled more than 1,000 cases that way last year, the equivalent of four medical examiners' worth of work.

"I hope the opioid crisis will unwind and we'll get back to a quieter workload," Fowler said.

If not, the office will continue to find ways to handle the load, he said. "We're taking everything head on."



# Drug-related deaths overburden Maryland medical examiner's office

**S** [baltimoresun.com/news/investigations/bs-hs-medical-examiner-accreditation-20170415-story.html](http://baltimoresun.com/news/investigations/bs-hs-medical-examiner-accreditation-20170415-story.html)

The opioid epidemic that has claimed so many lives in Maryland is overwhelming the state medical examiner's office.

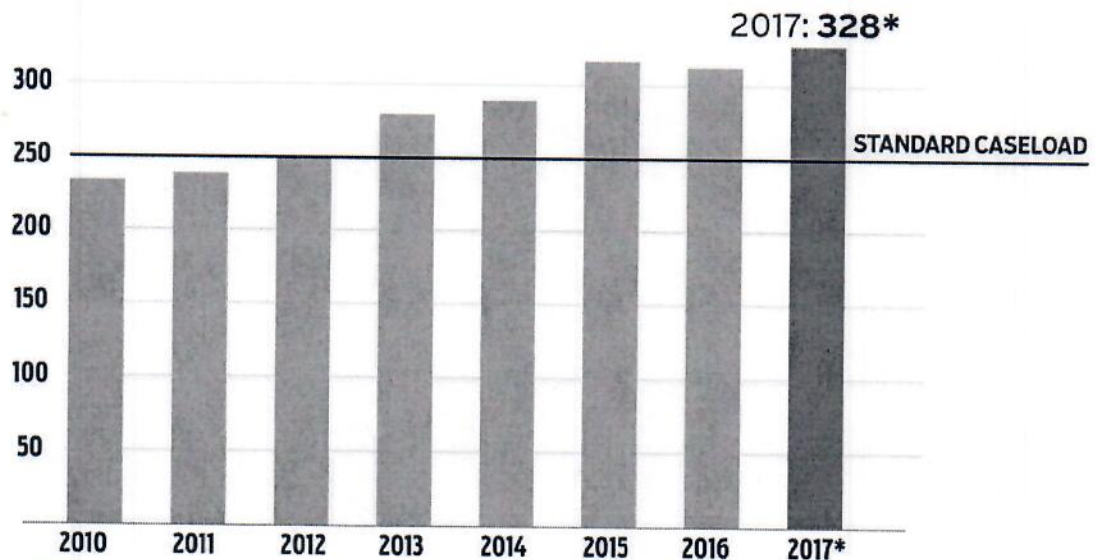
The agency has exceeded national caseload standards — the number of autopsies a single pathologist should perform in a year — in each of the past four years. The office now risks losing its accreditation.

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"Everyone continues to add on work hours and work faster and hopefully not take short cuts," said Dr. David R. Fowler, Maryland's chief medical examiner. "They absorb this extra load. But there is a point where they can't continue to add to that and expect the system will function."

The challenge is not limited to Maryland. The combination of additional and more complex cases is overwhelming medical examiners' offices across the country, particularly along the East Coast, leaving many on the verge of losing accreditation.

## CASELOAD PER MEDICAL EXAMINER



*\*2017 pro-rated based on first quarter*

**SOURCE: The Maryland Department of Health and Mental Hygiene**

The Maryland Office of the Chief Medical Examiner has exceeded the national caseload standard of 250 autopsies per examiner every year since 2013. Now projected to exceed 325 autopsies per examiner in 2017, the office risks losing accreditation. SOURCE: The Maryland Department of Health and Mental Hygiene (Adam Marton)

"We view this as a national crisis," said Dr. Brian L. Peterson, president of the National Association of Medical Examiners.

The association categorizes the Maryland Office of the Chief Medical Examiner, traditionally well regarded by peers, as "deficient." It will re-evaluate the Baltimore-based agency in May.

The office can continue to operate without accreditation. But the association warns that performing too many autopsies can jeopardize quality and undermine confidence in the results.

The situation has troubling implications for the criminal justice and public health systems. Prosecutors rely on autopsy findings and medical examiners' testimony to bolster their cases, and public health officials use data from the agency to direct resources.

State pathologists are performing about 40 percent more autopsies than in 2010 — almost 100 more apiece — and the toxicology lab now runs nearly nonstop, officials say. But the office has not significantly boosted the ranks of examiners, and is struggling to hold on to support staff.

"Maryland is currently fully accredited," Peterson said. "But as is the case with many offices, it might be facing loss of that accreditation due to the intersection of caseload and staffing level."

Hospitals throughout the state are dealing with a sharp increase in the number of babies born exposed to drugs as the opiate epidemic hits the youngest victims before they leave the womb.

The agency is part of the state Department of Health and Mental Hygiene. Medical examiners investigate deaths caused by injury, homicide or suicide, and those that are untimely, suspicious or not attended by a physician. In Maryland, that's about a third of all deaths. The office handled 14,385 cases in fiscal year 2016, and performed 5,439 autopsies.

The office began exceeding the national standard of 250 autopsies per examiner per year in fiscal 2013, according to the state health department. Its inability to meet that standard has led to its designation as deficient.

After the first quarter of fiscal 2017, the pathologists were on target to perform 328 autopsies — exceeding the limit of 325 for maintaining accreditation.

Baltimore County State's Attorney Scott Shellenberger, president of the Maryland State's Attorneys' Association, said a loss of accreditation would have an immediate effect on his cases. Prosecutors rely on medical examiners to provide solid autopsies and come to trial prepared to testify.

"In some cases there is a heightened need for forensic evidence to shed light on what actually happened," he said. "You want that to be the easy part of the case, the least challengeable and controversial. If they lose accreditation, it could create some doubt."



Dr. Leana Wen, the Baltimore health commissioner, said she relies on information from the medical examiner's office to develop policy and direct resources. But it isn't always available in a timely manner.

She noted, for example, that 2016 overdose death totals are not yet available from the state health department more than three months after the end of the year.

She said she has turned to hospital emergency rooms and emergency service providers for immediate information on "hot spots" of suspected fentanyl overdoses so officials can warn people in the community.

"Considering the number of overdoses, delays make sense in the medical examiner's office," she said. "But it also can impede our work."

Opioid overdoses now rank among cancer, strokes and heart attacks as the top killers in Maryland. State health officials say their goal for the next two years is to slow the rate at which the problem is worsening.

Fowler lists 17 medical examiners on staff, up from 15 in 2015. He said six more examiners were needed to meet the standards. He requested three in the most recent state budget, out of consideration of the costs, about \$171,000 each. He did not get them.

He reported that the office is completing only about three-quarters of the autopsies in 60 days. The standards call for 90 percent to be completed in that time.

In an interview, Fowler said the situation stings, even though he knows many other offices nationally face the same problems.

He said offices in some other states have racked up backlogs and scaled back services. He said that won't happen in Maryland.

Fowler's office was considered deficient once before, because it lacked proper space before a new building opened in 2010. That rating was not based on performance.

Fowler said overloaded workers are more likely to make mistakes. Delays mean families wait longer for answers and to claim the bodies of loved ones.

The state budget for fiscal 2018, which begins in July, does not include funding for more examiners. Instead, officials added \$400,000 to boost salaries for examiners now working longer hours because they do not earn overtime.

The agency is also being permitted to fill five open support positions.

A health department spokesman said increasing salaries was the priority this year. Spokesman Christopher Garrett said officials are still exploring ways to shift more personnel to the agency.

A spokeswoman for Gov. Larry Hogan noted that the budget for the medical examiner's office has increased from \$11.4 million in fiscal 2015 to \$12.8 in the coming year.

"Funding for the Office of the Chief Medical Examiner has increased each year since the governor took office," spokeswoman Amelia Chasse said. "The [health] secretary is currently conducting an analysis of the office to determine additional personnel needs, and our administration is committed to meeting those needs."

Fowler said the office is handling a range of new cases, including those from the spike in homicides in Baltimore. The city has recorded more than 300 killings in each of the past two years, the first and second deadliest on record.

But there were far more deaths from overdose: 1,468 statewide in the first nine months of 2016, up from 1,259 for all of 2015, and more than twice as many as in 2010. Maryland was one of 30 states to report a large increase in overdose deaths.

As the state continues to battle a worsening heroin and prescription pill epidemic, Gov. Larry Hogan signed a declaration of emergency Wednesday to bring more resources to bear in the problem.

More than 900 of the fatal overdoses in 2016 were related to heroin. More than 700 were related to fentanyl, a far more powerful opioid that is often mixed with heroin, unbeknownst to users.

Dr. Bruce Goldberger, a professor of toxicology at the University of Florida College of Medicine, said fentanyl has proved to be the greatest challenge for medical examiners. Illicit labs are constantly churning out new formulations, he said, and there are not always good testing methods to identify them.

Goldberger, a consultant for the U.S. Centers for Disease Control and Prevention, has studied the effects of fentanyl on medical examiner offices.

He called the combination of extra cases and more complex cases "unprecedented."

"These new emerging drugs, specifically fentanyl analogs, have a catastrophic effect," Goldberger said.

His lab performs toxicology testing for several Florida county medical examiners. He said he has seen a surge in requests.

"We are inundated," he said, "and we don't know how to dig out of it."

Fowler said he's still hoping for more examiners. He said his staff is extremely dedicated, and often works long hours without breaks. But many will qualify for retirement in the next five or six years.



Replacing them might not be easy, even with funding. The number of practicing pathologists who work as medical examiners dropped more than 11 percent from 2010 to 2015, according to the Association of American Medical Colleges. That was a steeper drop than in any other specialty.

Dr. Janis Orlowski is the group's chief health care officer.

"I think people go to medical school and then choose a specialty based on lifestyle as much as they choose based on what's interesting to them," she said. "Perhaps they see people in this area are overworked, as they likely are in the office in Baltimore."

*meredith.cohn@baltsun.com*