

## ODMAP: Limiting the Use of ODMAP

There is a concern that ODMAP will be used as a policing tool. Are there ways to limit or define how data submitted to ODMAP is used?

### Response

Yes. ODMAP's policies and procedures require participating agencies to use ODMAP "only for its intended purposes," which are "to support public safety and public health efforts to mobilize an immediate response to a sudden increase, or spike in overdose events."<sup>1</sup> To the extent that a participating agency believes this limitation on ODMAP use is insufficient, the agency has several options.

One option is to enter into data use agreements or memoranda of understanding (MOUs) with local law enforcement agencies. Alternatively, interested entities could seek an opinion from a state attorney general or local district attorney addressing the scope of ODMAP use. At the local level, if a participating agency is part of a group of community programs working together to determine the best ways to use ODMAP, the participating agency could establish an MOU concerning the extent to which ODMAP can be used (if at all) for law enforcement-related purposes.

The most robust solution, however, is enactment of a state or local statute/ordinance that prohibits certain actions by law enforcement based solely on access to ODMAP. At least two states with overdose reporting legislation include a provision prohibiting the use of reported information for purposes of criminal investigation or prosecution.<sup>2</sup>

### Definitions

**Protected Health Information (PHI) [45 C.F.R. § 160.103]**—An agency registered with the Washington/Baltimore HIDTA to use ODMAP. Participation in ODMAP is available at no cost to federal, state, local, and tribal law enforcement, other licensed first responders, criminal justice personnel, emergency rooms and hospital personnel, and other public health entities serving the interests of public safety and public health.

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<sup>1</sup> Washington/Baltimore High Intensity Drug Trafficking Areas Overdose Detection Mapping Application Program, *ODMAP Policies and Procedures*, at 5 (revised March 2021), <http://www.odmap.org/Content/docs/training/general-info/ODMAP-Policies-and-Procedures.pdf>.

<sup>2</sup> 10 ILL. COMP. STAT. ANN. 50/3.233(e) (West 2021); MD. CODE ANN., HEALTH-GEN. § 13-3602(e) (West 2021).