Criminal Justice, Substance Use and the Continuum of Care

Today's incarcerated person is tomorrow's neighbor

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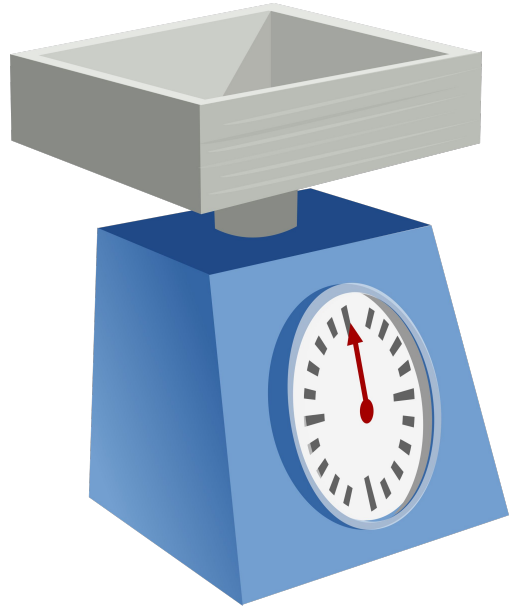
LEARNING OBJECTIVES

By the end of the presentation attendees will be able to:

- State one reason to consider the jail as part of the healthcare ecosystem
- State what intervention is the standard of care for opioid withdrawal and opioid use disorder
- State one barrier to warm hand offs between jails and community

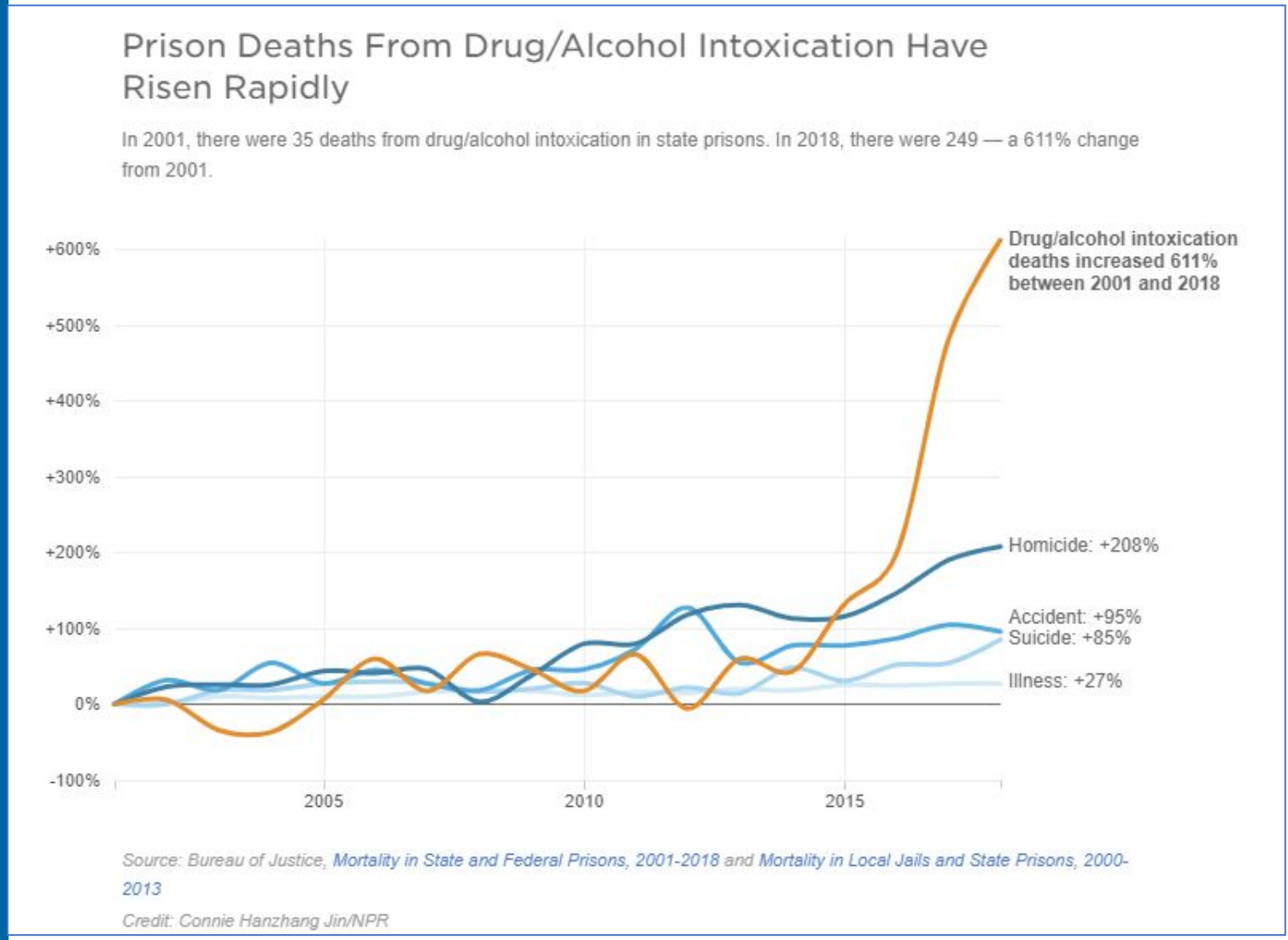
SCALE OF THE PROBLEM

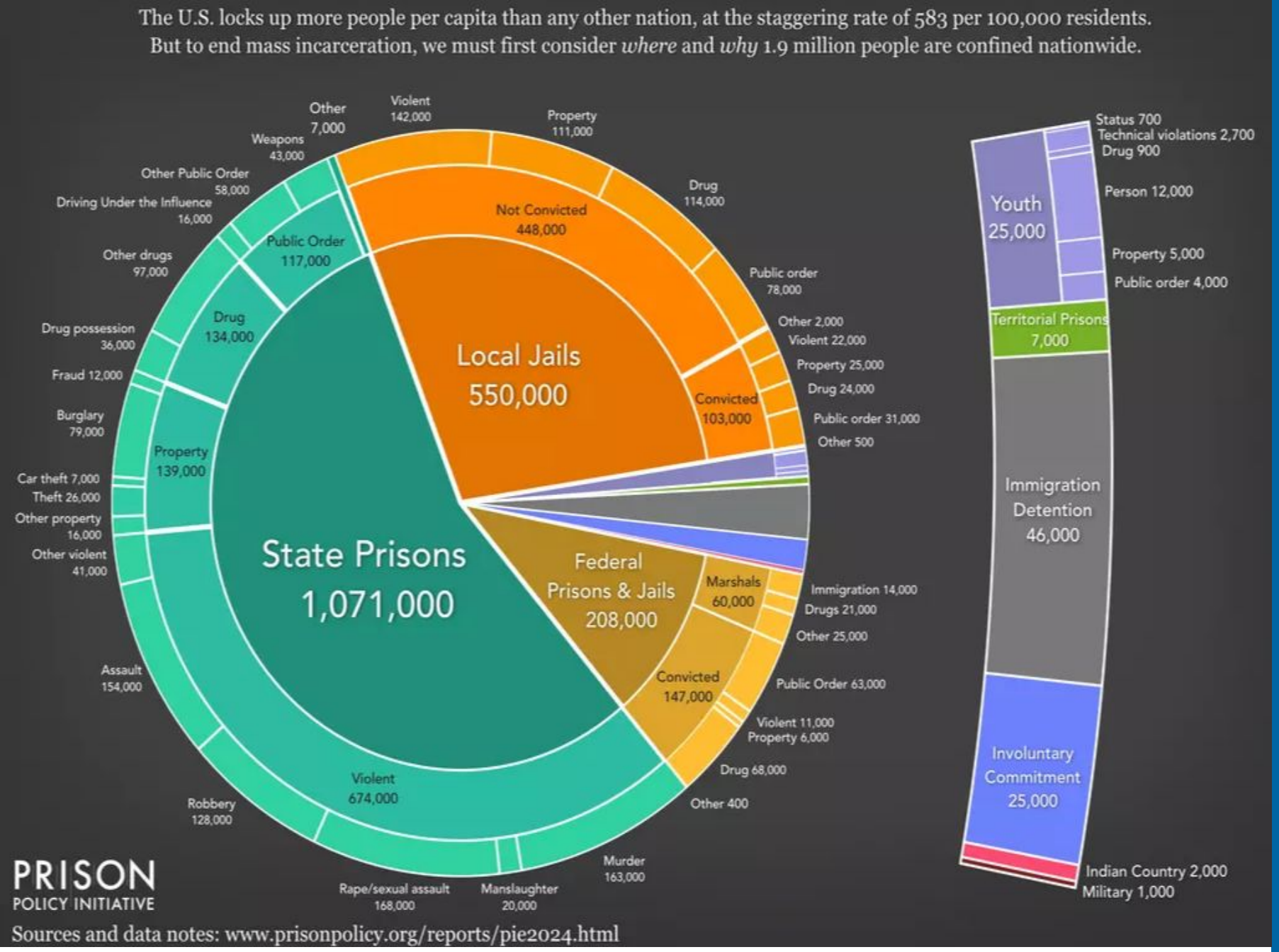
- Over 1.9 million people are incarcerated in the US
- Two-thirds of people in jail meet criteria for substance use disorder
- 19% of sentenced jail inmates have OUD
- Many more have alcohol, methamphetamine use disorders



- Risk of overdose increases 129 times over the general population for those who leave jail
- Treatment can decrease this by 60-80%

INCREASES IN OVERDOSE DEATHS: 600% IN PRISONS 200% IN JAILS



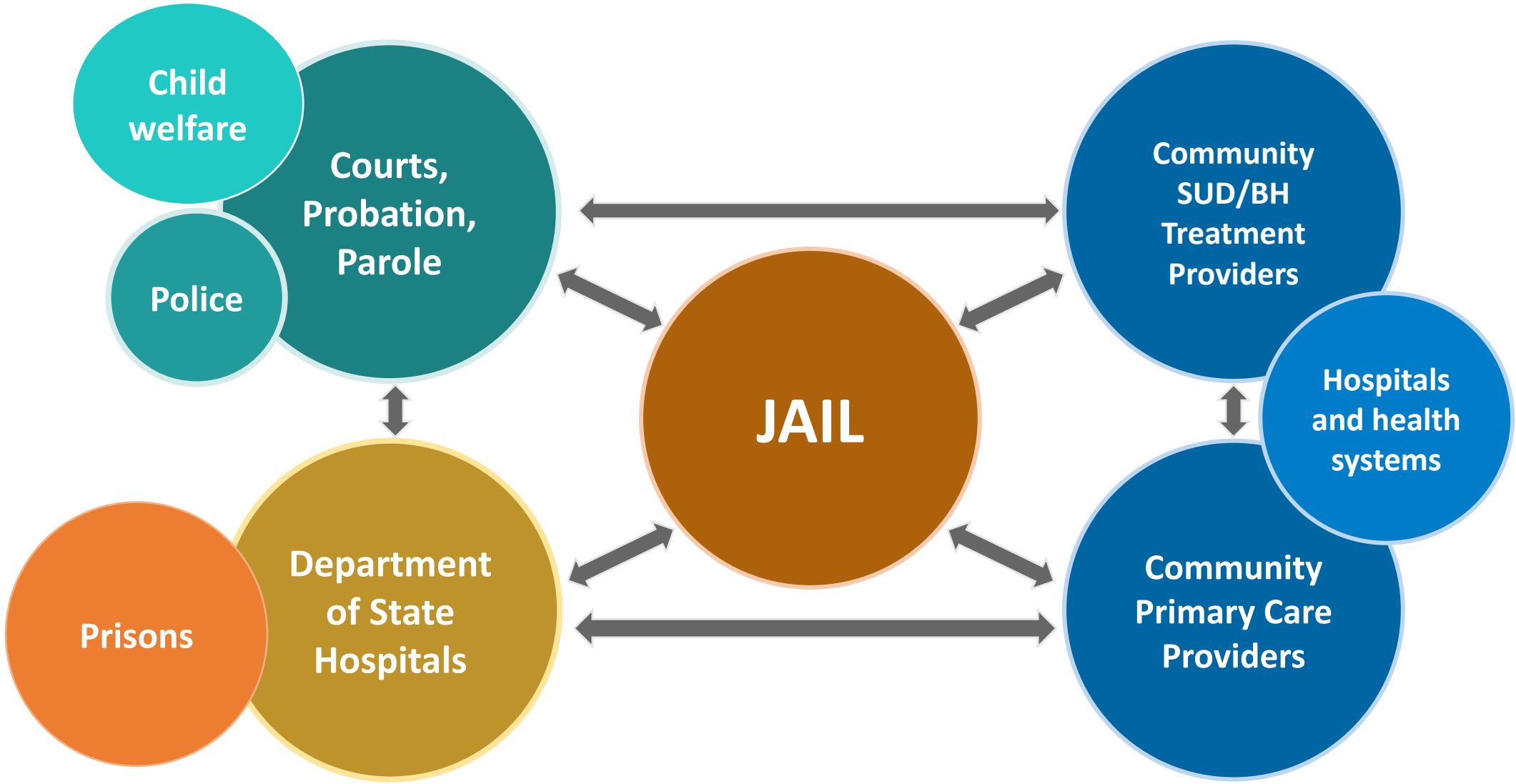


HOW MANY PEOPLE ARE LOCKED UP IN THE US

HISTORICALLY

- Treatment for
  - Medical
  - Mental health
  - Substance use disorders
    - Have been siloed
    - Inside carceral settings and in the community
- A siloed approach doesn't lead to the best outcomes!

Jail as Part of the Safety Net Ecosystem



WHAT IS THE DIFFERENCE?

Jail

- Awaiting Trial or
- Short duration of sentence
- Run by County Sheriff or local government

Prison

- Convicted of a crime
- Long duration of sentence
- Run by state or federal governments
- More education and rehabilitative programs

COMMUNITY SUPERVISION: WHAT IS THE DIFFERENCE?

Probation

- Can be utilized in lieu of confinement
- Can occur post jail or prison confinement
- Oversight by county
- Does not have built in healthcare services

Parole

- Not used in lieu of confinement
- Can occur post prison confinement
- Oversight by state or federal governments
  - Or post release community supervision which has county oversight
- Has built in mental health services for some

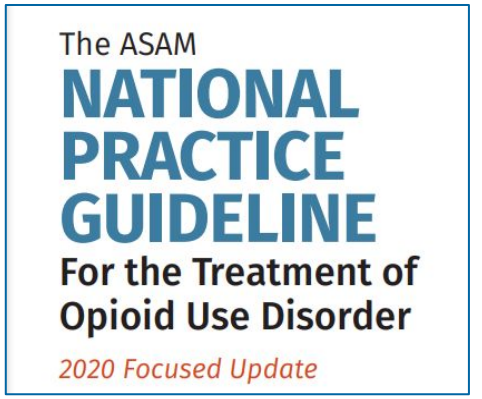
Have you ever been in a jail or prison?

Photo by Matthew Ansley on Unsplash

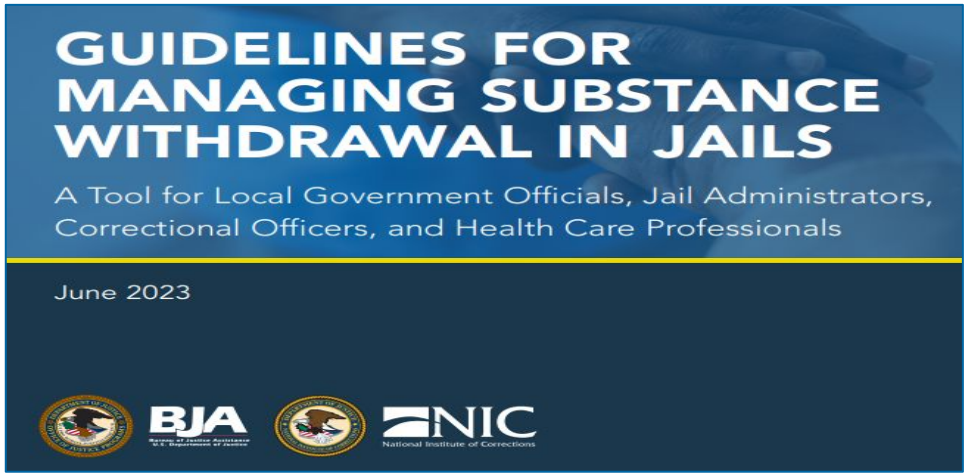
ONE STANDARD OF CARE

- Bureau of Justice Assistance (BJA) & National Institute of Corrections (NIC) guidance aligns with National Practice Guidelines & ASAM Clinical Considerations
- BJA NIC Guidelines are for:
  - Local Government Officials
  - Jail Administrators
  - Correctional Officers
  - Jail & Community Health Care Professional

References to the ***DHCS Policy and Operational Guide for Planning and Implementing the CalAIM Justice-Involved Initiative*** (released 10/20/ 23) can be found throughout the presentation in these boxes.



Link to ASAM National Practice Guidelines



Link to Guidelines for Managing Substance Withdrawal In Jails

GOAL: CONTINUITY OF CARE

Pre-detention

During incarceration

Post-release

But the devil is in the details

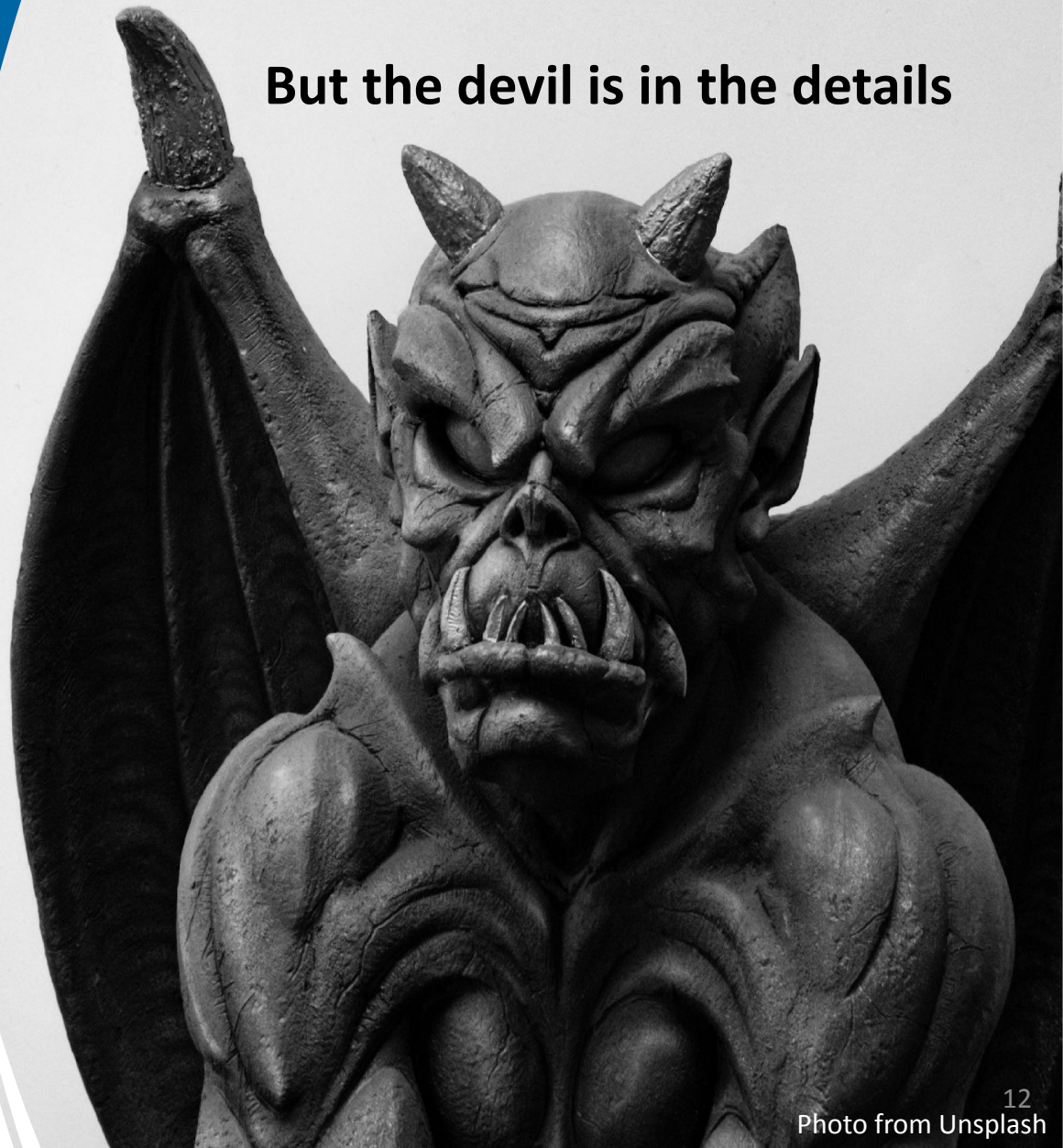


Photo from Unsplash

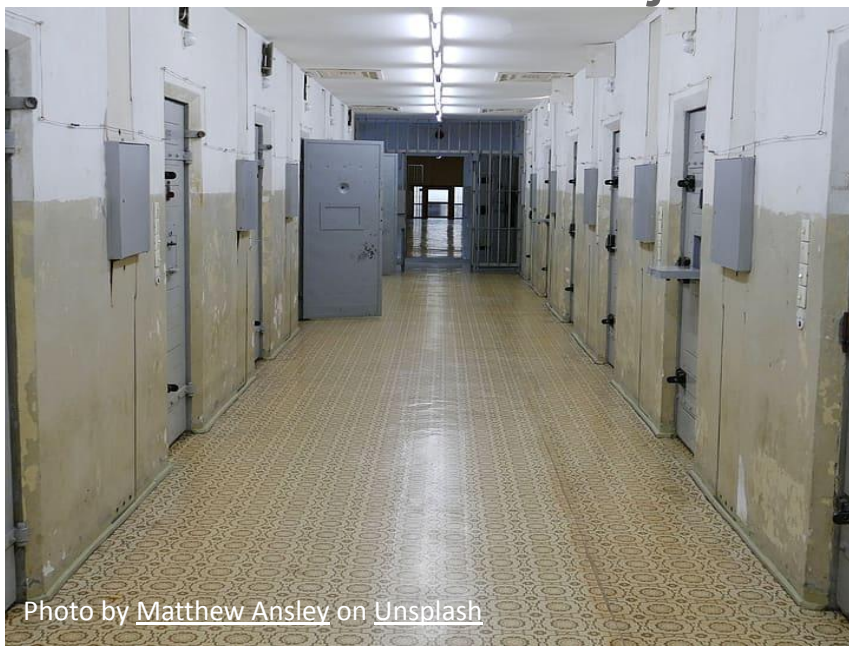
SECURITY LEVELS IN THE JAIL / PRISON

Photo by Pawel Czerwinski on Unsplash

SECURITY LEVELS AND HEALTHCARE

- **Security Levels**
  - Level 1- lowest security level
  - Level 2
  - Level 3
  - Level 4- highest security level
  - Other
    - Infirmary
    - Restrictive Housing
      - Secure Housing Unit
      - Administrative Segregation
    - Death row- level 4 +

- Jail is responsible for necessary health care, including preventive, routine, urgent, and emergency care regardless of where the inmate is within the jail



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OBLIGATION TO PROVIDE HEALTHCARE BASED ON THE CONSTITUTION

- 8th amendment prohibits cruel and unusual punishment
  - cited as deliberate indifference
  - Courts have stated: understaffing and incompetence results in misdiagnosis & long delays resulting in fatality is not an excuse
- 14th amendment provides equal protection to all persons
- Americans with Disabilities Act
  - Substance use disorders are covered
  - Must have access to treatment

U.S. Department of Justice
Civil Rights Division

The Americans with Disabilities Act and the Opioid Crisis: Combating Discrimination Against People in Treatment or Recovery

The opioid crisis poses an extraordinary challenge to communities throughout our country. The Department of Justice (the Department) has responded with a comprehensive approach prioritizing prevention, enforcement, and treatment. This includes enforcing the Americans with Disabilities Act (ADA), which prohibits discrimination against people in recovery from opioid use disorder (OUD) who are not engaging in illegal drug use, including those who are taking legally-prescribed medication to treat their OUD. This guidance document provides information about how the ADA can protect individuals with OUD from discrimination—an important part of combating the opioid epidemic across American communities. While this document focuses on individuals with OUD, the legal principles discussed also apply to individuals with other types of substance use disorders.

1) **What is the ADA?**

The ADA is a federal law that gives civil rights protections to individuals with disabilities in many areas of life. The ADA guarantees that people with disabilities have the same opportunities as everyone else to enjoy employment opportunities,[1] participate in state and local government programs,[2] and purchase goods and services.[3] For example, the ADA protects people with disabilities from discrimination by social services agencies; child welfare agencies; courts; prisons and jails; medical facilities, including hospitals, doctors' offices, and skilled nursing facilities; homeless shelters; and schools, colleges, and universities.

2) **Does an individual in treatment or recovery from opioid use disorder have a disability under the ADA?**

Typically, yes, unless the individual is currently engaged in illegal drug use. *See* Question 5.

The ADA prohibits discrimination on the basis of disability.[4] The ADA defines disability as (1) a physical or mental impairment that substantially limits one or more major life activities,

LEVEL 1 INSTITUTIONS AND CAMPS

- Dorm with low security perimeter

This Photo by Unknown Author is licensed under CC BY

- Camps without a secure perimeter

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Photo KVCR News

LEVEL 2

- Dorm
- Secure perimeter

Why are the levels important?

Because inmates of different levels aren't to interact.

MAXIMUM SECURITY

Level 3

- Cells can be adjacent to exterior walls
- Secure perimeter
- Armed external coverage

Level 4

- Cells are not adjacent to exterior walls
- Secure perimeter
- Internal and external armed coverage

Photo by iStock 1223881628

RESTRICTIVE HOUSING

Administrative Segregation (Ad Seg) and Secure or Special Housing Unit (aka the hole or SHU) are maximum security areas

- They do not have a level
  - Disciplinary segregation due to disciplinary finding
  - Administrative detention during investigation
  - Protective custody
- No one here can have a job

SPECIAL NEEDS YARD

Who is on a special needs yard?

People who need protected from other inmates

- Sex offenders
- Cartel/gang dropouts
- Former law enforcement
- Mental health patients
- Intellectual disabilities

Photo by iStock 177011421. Posed by model

BARRIERS TO CARE INSIDE

FOG DELAY

HEALTH CARE: MODELS IN CORRECTIONS

Photo by Microsoft

HEALTHCARE DELIVERY SYSTEM MODELS

Direct Care model:

State (county)-employed corrections department clinicians provide all or most of all on-site care

Contracted model:
Clinicians employed by one of more private companies deliver all or most on-site care

State University model:
The state's (county's) public medical school or affiliated organization is responsible for all or most on-site care

Hybrid model:

On-site care is delivered by some combination of other models

For state prisons:

17 states direct

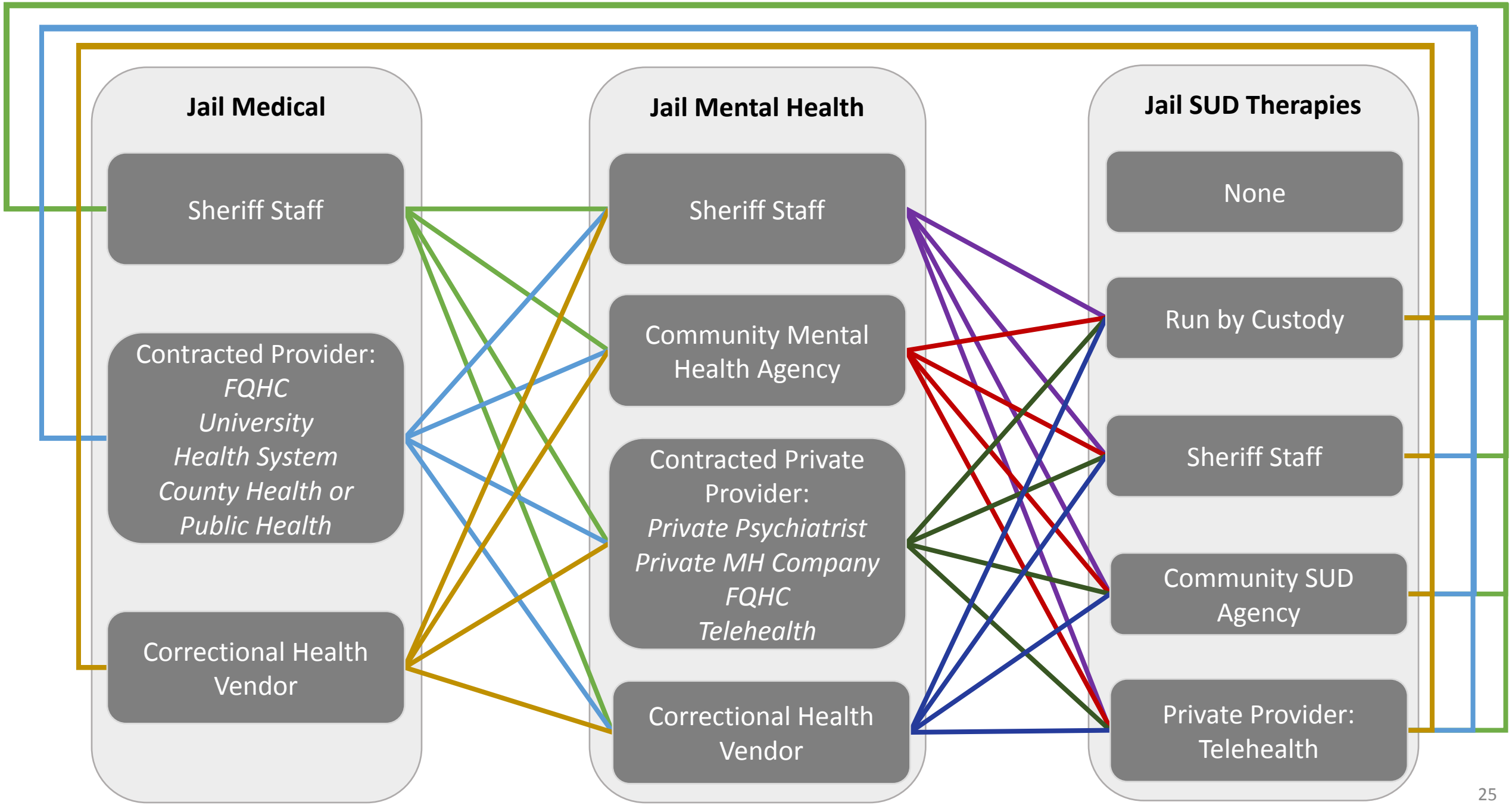
20 states contracted

4 states university

8 states hybrid

(NH did not report)

Pew, 2018



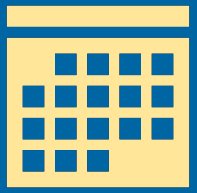
JAIL HEALTH SERVICE OPTIONS

- Many jails prohibit PCPs from writing any psychotropic medications or psychiatrists from writing non-psychotropic medications
- Jails with separate mental health providers may also have separate medical records
- Many jails do not allow SUD providers access to the medical record and SUD does not appear on the problem list

Who writes scripts for SUD Rx?

- Primary care
- Psychiatry
- SUD provider
- All the above
- None of the above

CORRECTIONAL SETTINGS….



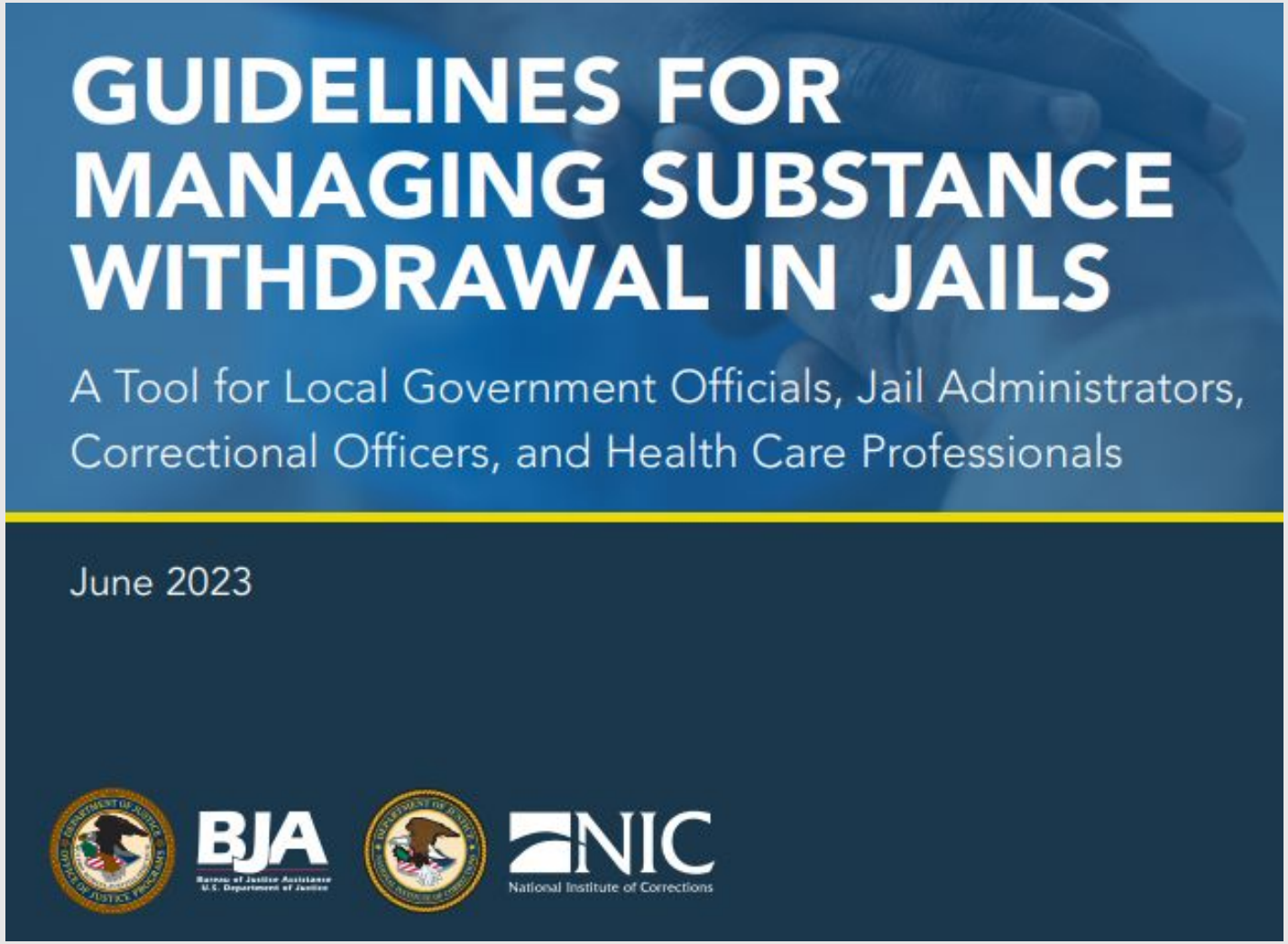
- Are outpatient medical clinics
  - But timeliness of care is different than what we are used to
  - Historically regulations may say they have 14 days to
    - draw blood
    - do an EKG
    - start medication
- Are NOT hospitals
  - Rarely very large locations will have a hospital level of care for physical or mental health

WHY TREAT OPIOID USE DISORDER IN JAILS?

- People die of withdrawal while incarcerated
- People use while incarcerated and die
  - This decreased when CDCR implemented medication for opioid use disorder
- 50% of people who experience forced withdrawal do not return to treatment
- People started on medication for opioid use disorder (MOUD) while incarcerated do better than those referred to treatment post release
- Overdose is the leading cause of death post release
  - We can decrease death post release with MOUD by 60-80%

Carson 2021; CCHCS 2023; Green 2018; Kinlock 2007; Lim 2023; Rich 2015

STANDARDS: MEDICATION FOR OPIOID WITHDRAWAL AND OPIOID USE DISORDER IN JAILS



FOR THOSE PRESCRIBED MEDICATION FOR OPIOID USE DISORDER PRIOR TO DETENTION, OPIOID WITHDRAWAL MANAGEMENT IS NOT NECESSARY IF THE PATIENT IS CONTINUED ON BUPRENORPHINE OR METHADONE UPON INTAKE TO JAIL.

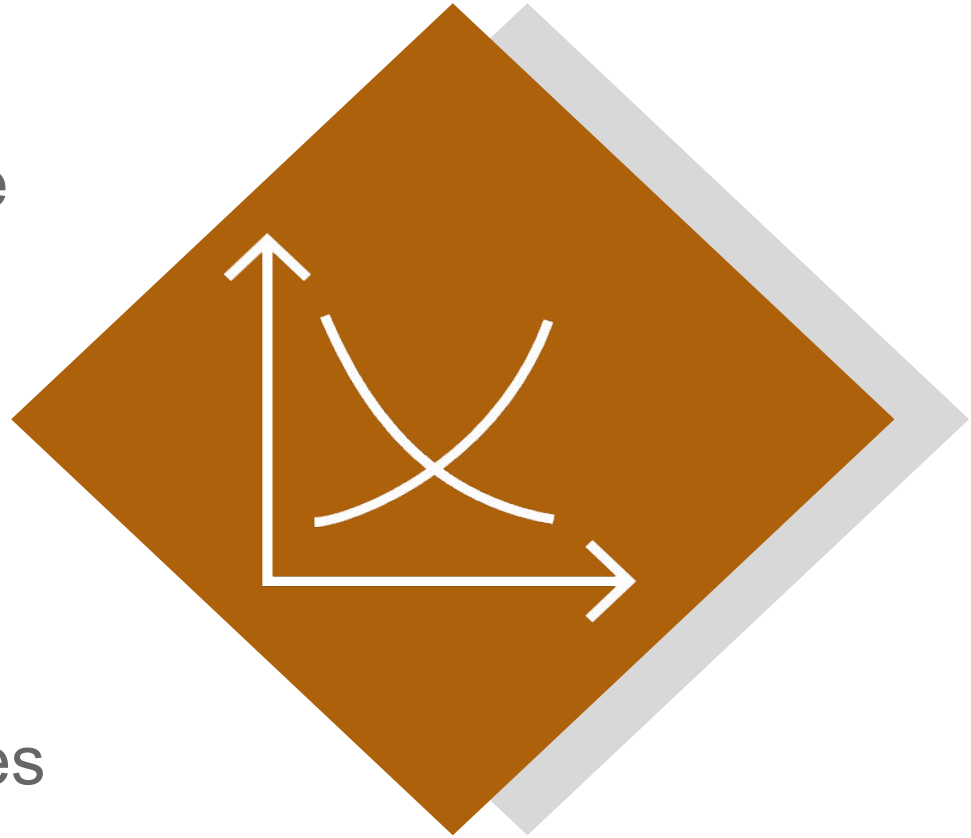
Photo by Chuttersnap on Unsplash

OPIOID WITHDRAWAL MANAGEMENT WITHOUT ONGOING OPIOID USE DISORDER TREATMENT INCREASES THE RISK FOR OVERDOSE AND DEATH…INITIATE ONGOING TREATMENT FOR WITH BUPRENORPHINE OR METHADONE.

Photo by Pina Messina unsplashed

TRANSITIONS AND DISCONTINUATIONS

- Patients should NOT be required to transition from an agonist to an antagonist.
- Transitioning from methadone to buprenorphine is clinically complex and should be managed by…
- Discontinuing buprenorphine or methadone should only be done when clinically indicated.
- In the rare instance where discontinuing buprenorphine or methadone is indicated, the complexity of discontinuing requires the services of a medical provider with SUD treatment expertise.



RETURN TO COMMUNITY

BJA NIC GUIDELINE RECOMMENDATIONS | REENTRY

- Jail should assist with transfer to community-based treatment upon release.
- Prescribers should ensure access to buprenorphine or methadone to prevent interruption of dosing when the patient transitions to the community.
- Back up plans are vital in the event community appointment cannot be completed. Bridge clinics and telehealth resources can be helpful.

CalAIM JI Initiative Policy and Operational Guide: The CalAIM Justice-Involved Initiative includes the provision of medications in hand to eligible individuals upon release from a correctional setting in order to ensure individuals have enough medications to follow their treatment plans; maintain stabilization on the medications they were prescribed when incarcerated; and avoid decompensation in the period between release and any appointments they may have with their community-based physical and/or behavioral health providers (pgs. 119-120).

BJA NIC GUIDELINE RECOMMENDATIONS | NALOXONE

- Naloxone should be given to pregnant patients in cases of opioid overdose.
- Naloxone or prescription for naloxone should be available to all patients with OUD upon release.
- Consider providing naloxone to all patients with SUDs.
- Consider providing naloxone to family and friends of patients with SUDs.

CalAIM JI Initiative Policy and Operational Guide:

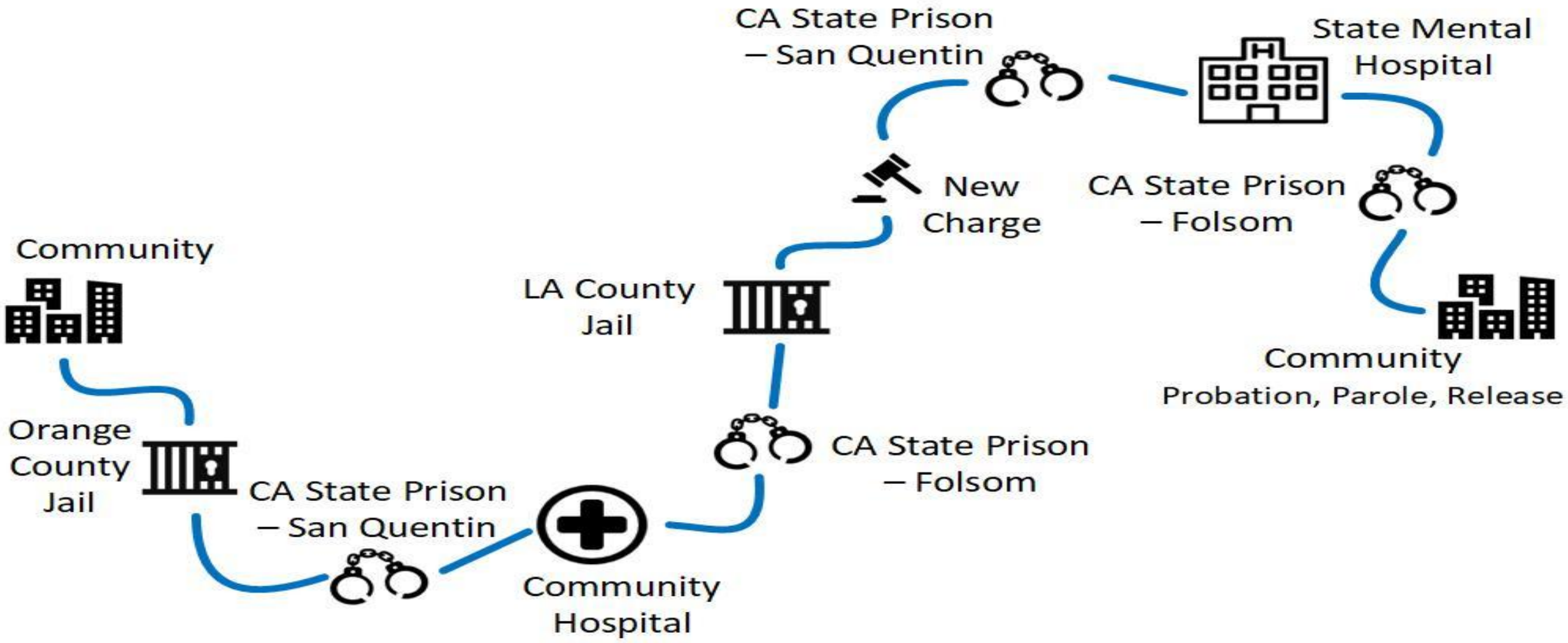
- Ensure that opioid overdose reversal medication is available, and staff have been trained in its use. Support access to overdose-reversal medication (naloxone) (pg. 113).
- At the time of release, all individuals must be offered naloxone and instruction on its use, regardless of any history of OUD (pg. 122).

BARRIERS TO WARM HANDOFF

- Drug court, jails, prisons, hospitals & community programs may
  - Not have a shared understanding of the problem
  - Are at different stages of implementation
  - Not have workflows to make appointments or share data pre-release
  - Don’t have closed communication circles to address continuous quality improvement

Photo by Microsoft

A YEAR IN THE LIFE OF A CALIFORNIAN



BARRIERS UPON RELEASE

- Transportation
- Money
  - For transportation
  - For co-pays or to cover appointments
    - For medication and appointments
- Alarm clock
- Phone
- Place to sleep

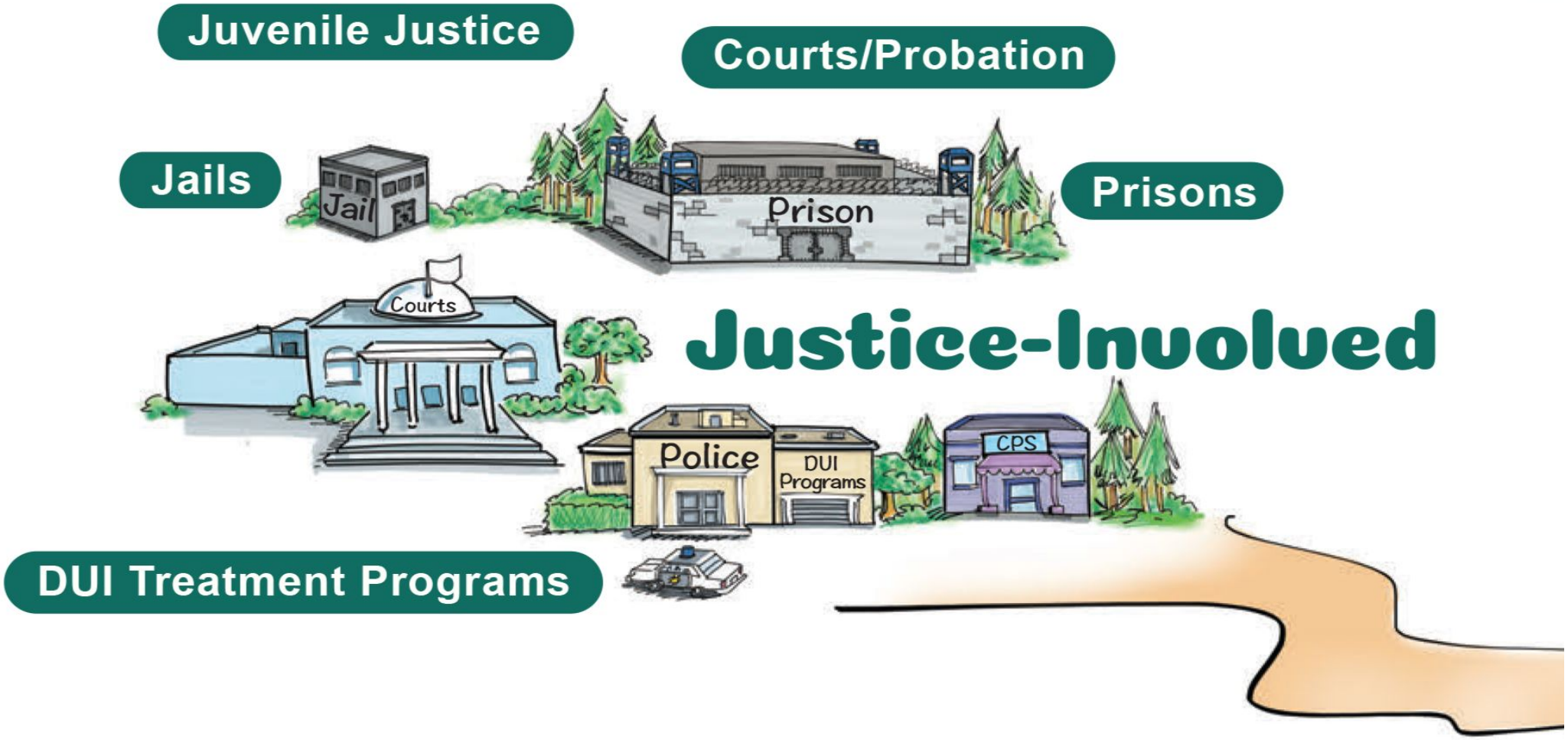





WERE OUR LEARNING OBJECTIVES ACHIEVED?

- State one reason to consider the jail as part of the healthcare ecosystem
- State what intervention is the standard of care for opioid withdrawal and opioid use disorder
- State one barrier to warm hand offs between jails and community

QUESTIONS?



REFERENCES

- Binswanger IA, Stern MF, Deyo RA, Heagerty PJ, Cheadle A, Elmore JG, Koepsell TD. Release from prison--a high risk of death for former inmates. N Engl J Med. 2007 Jan 11;356(2):157-65. doi: 10.1056/NEJMsa064115. Erratum in: N Engl J Med. 2007 Feb 1;356(5):536. PMID: 17215533; PMCID: PMC2836121. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2836121/
- Bronson, J. , Stroop, J., Zimmer, J., Berzofsky, M., (2017). Drug use, dependence, and abuse among state prisoners and jail inmates, 2007-2009. Bureau of Justice Statistics. https://bjs.ojp.gov/content/pub/pdf/dudaspji0709.pdf
- Bureau of Justice Assistance. (2022). Managing Substance Withdrawal in Jails: A Legal Brief. https://bja.ojp.gov/doc/managing-substance-withdrawal-in-jails.pdf
- CDCR CCHCS (2023) ISUDT 2nd Annual Report: Impacts of the Integrated Substance Use Disorder Treatment (ISUDT) Program on Morbidity and Mortality. Sacramento, CA.https://cchcs.ca.gov/wp-content/uploads/sites/60/2023-ISUDT-Report_v36.pdf
- Carson, E.A. (2021). Mortality in Local Jails, 2000-2019 Statistical Tables. Bureau of Justice Assistance (BJA). Washington, D.C. https://bjs.ojp.gov/content/pub/pdf/mlj0019st.pdf
- Carson, E.A. (2021). Mortality in State and Federal Prison 2001-2018 Statistical Tables. BJA. Washington, D.C. https://bjs.ojp.gov/library/publications/mortality-state-and-federal-prisons-2001-2018-statistical-tables
- https://cchcs.ca.gov/wp-content/uploads/sites/60/2023-ISUDT-Report_v36.pdf
- Department of Health Care Services. (2023) CalAIM home page. https://www.dhcs.ca.gov/CalAIM/Justice-Involved-Initiative/Pages/home.aspx
- Dober, G. (2019). Beyond Estelle: Medical Rights for Incarcerated Patients. Prison Legal News, November 2019.
- Fiscella, K et. al. (2020) Drug and Alcohol Associated Deaths in U.S. Jails. J Correctional Health Care 26(2):183-193. doi: 10.1177/1078345820917356. Epub 2020 Apr 21. PMID: 32314648. https://www.liebertpub.com/doi/full/10.1177/1078345820917356

REFERENCES

- Green, T. C. et al. (2018). Postincarceration Fatal Overdoses After Implementing Medications for Addiction Treatment in a Statewide Correctional System. JAMA psychiatry, 75(4), 405–407. https://doi.org/10.1001/jamapsychiatry.2017.4614
- Kinlock, T. W.et al. (2007). A randomized clinical trial of methadone maintenance for prisoners: results at 1-month post-release. Drug and alcohol dependence, 91(2-3), 220–227. https://doi.org/10.1016/j.drugalcdep.2007.05.022
- Legal Action Center (2019). Recent Court Actions Impacting the Substance Use Disorder Field. Legal Action Center. https://nasadad.org/wp-content/uploads/2019/06/6.6.19-Recent-Court-Actions-Impacting-SUD-Field.pdf
- Lim S, Cherian T, Katyal M, Goldfeld KS, McDonald R, Wiewel E, Khan M, Krawczyk N, Braunstein S, Murphy SM, Jalali A, Jeng PJ, MacDonald R, Lee JD. Association between jail-based methadone or buprenorphine treatment for opioid use disorder and overdose mortality after release from New York City jails 2011-17. Addiction. 2023 Mar;118(3):459-467. doi: 10.1111/add.16071. Epub 2022 Nov 16. PMID: 36305669; PMCID: PMC9898114.
- Magura, S. et al. (2009). Buprenorphine and methadone maintenance in jail and post-release: a randomized clinical trial. Drug and alcohol dependence, 99(1-3), 222–230. https://doi.org/10.1016/j.drugalcdep.2008.08.006
- https://www.prisonpolicy.org/reports/pie2023.html
- Ranapurwala SI, Shanahan ME, Alexandridis AA, Proescholdbell SK, Naumann RB, Edwards D Jr, Marshall SW. Opioid Overdose Mortality Among Former North Carolina Inmates: 2000-2015. Am J Public Health. 2018 Sep;108(9):1207-1213. doi: 10.2105/AJPH.2018.304514. Epub 2018 Jul 19. PMID: 30024795; PMCID: PMC6085027. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6085027/
- Rich, J. D., et al. (2015). Methadone continuation versus forced withdrawal on incarceration in a combined US prison and jail: a randomised, open-label trial. Lancet (London, England), 386(9991), 350–359. https://doi.org/10.1016/S0140-6736(14)62338-2.
- US Department of Justice Civil Rights Division (2022). The Americans with Disabilities Act and the Opioid Crisis-Combating Discrimination against People in Treatment or Recovery. Washington, D.C. https://archive.ada.gov/opioid_guidance.pdf
- Weimer, M. B., et al. (2023). ASAM Clinical Considerations: Buprenorphine Treatment of Opioid Use Disorder for Individuals Using High-potency Synthetic Opioids. *Journal of addiction medicine*, *17*(6), 632–639.