

# THE LEGISLATIVE ANALYSIS AND PUBLIC POLICY ASSOCIATION

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## Overview of Deflection, Drug Courts, and MAT in Correctional Settings

2024 NCSL Opioid Fellows Meeting  
June 8, 2024

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Legislative Analysis and Public Policy Association (LAPPA)

# About LAPPA



501(c)(3) nonprofit organization whose mission is to conduct legal and legislative research and analysis and draft legislation on effective law and policy at the intersection of public health and public safety.

[www.legislativeanalysis.org](http://www.legislativeanalysis.org)

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# What does LAPPA do?

- Model Acts grant
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Model Laws

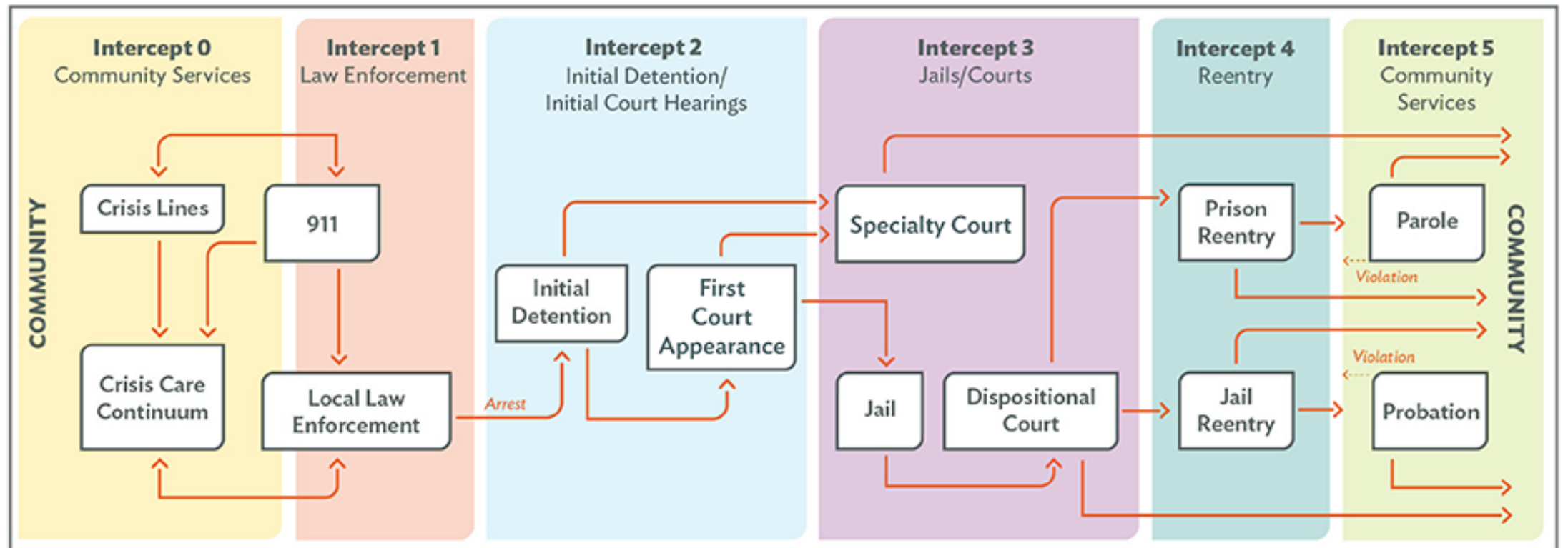


Innovative Initiatives



Legal & Legislative Research

# Sequential Intercept Model

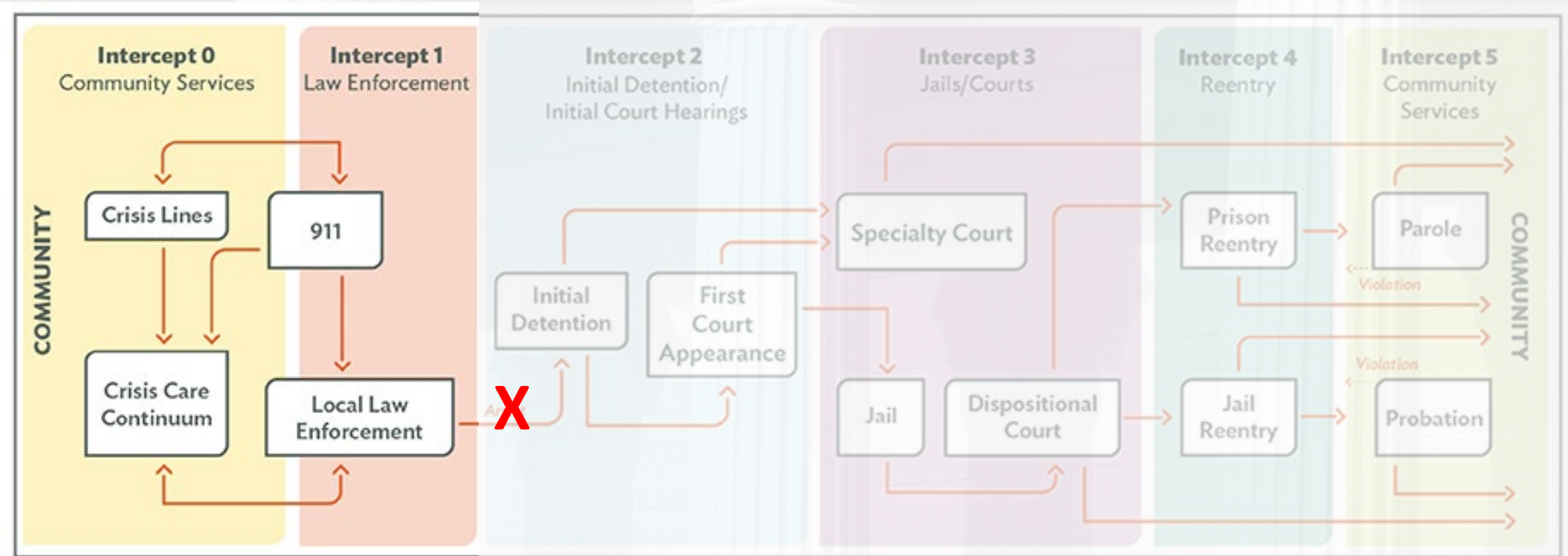


National Council for Mental Wellbeing



# Deflection and the Deflection Pathways

# Deflection





# What is Deflection?

**“Deflection”** is a collaborative intervention to assist individuals with substance use disorder, mental health disorder, or co-occurring disorders, in which law enforcement or other first responders connect with behavioral health systems to create community-based pathways to treatment, recovery support services, housing, case management, or other services

- The Treatment Alternatives for Safe Communities’ (TASC) Center for Health and Justice coined the term in 2015
- Different from diversion

# Support for deflection initiatives

*“Law enforcement agencies should empower police officers . . . to use alternative remedies such as drug and alcohol treatment, hospitalization, and other diversionary programs, when appropriate, as these outlets can simultaneously help citizens, save money and reduce recidivism.”*

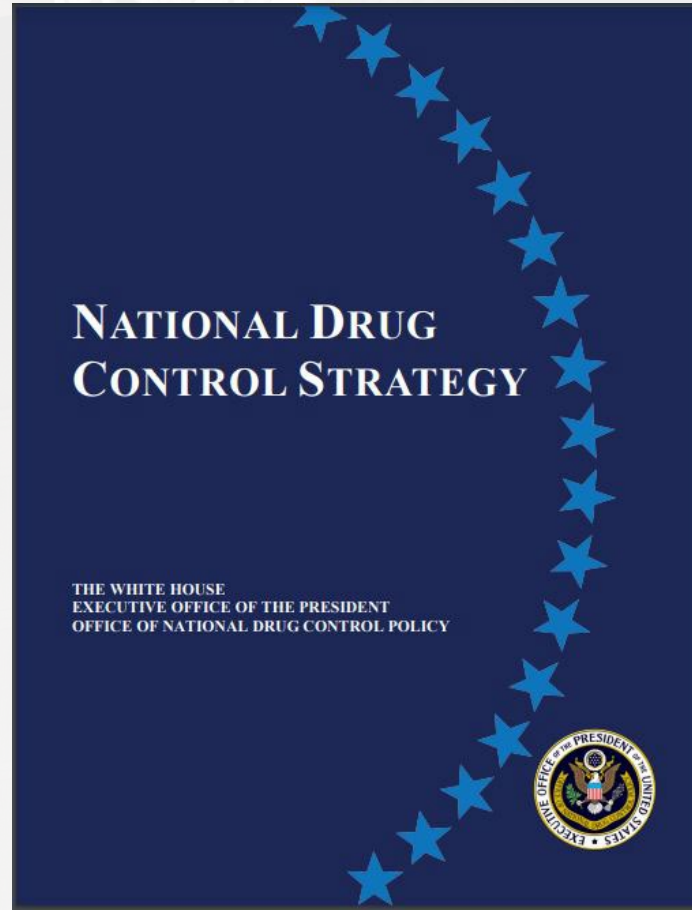
-International Association of Chiefs of Police, Nov. 2018





# Support for deflection initiatives

The Office of National Drug Control Policy, Executive Office of the President included deflection as part of the last three published National Drug Control Strategies (2019, 2020, and 2022).



# Deflection Pathways

Active Outreach  
Deflection

Community Response  
Deflection

Intervention  
Deflection

Prevention  
Deflection

Post-overdose  
Response (“naloxone  
plus”) Deflection

Self-referral  
Deflection



# Active Outreach Deflection

- First responders, with or without behavioral health professionals, proactively seek out an individual or group to initiate contact leading to a referral to treatment or other services.
- Homeless/encampment outreach teams

# Community Response Deflection

A team comprised of community-based behavioral health professionals responds to a call for service to help de-escalate crises, mediate low-level conflicts, or provide referrals to treatment or other services.



# Community Response Deflection

- Crisis Assistance Helping Out on the Streets (CAHOOTS)
  - A mobile crisis intervention program in Eugene, Oregon
  - Funded through the Eugene Police Department
  - Van is staffed with a medic (nurse or EMT) and a crisis worker
  - Respond in lieu of law enforcement - provide initial contact and transport for people who are intoxicated, mentally ill, or disoriented
  - Respond to three to eight percent of all Eugene Police Department calls





# Intervention Deflection

- During routine activities such as patrol or response to a service call during which charges otherwise would be led, law enforcement provides a referral to treatment, services, or to a case manager, or issues a non-criminal citation to report to a program. Charges are held in abeyance until treatment and/or a social service plan is successfully completed.
- Differs from “citation in lieu of arrest” because it requires the individual, at the very least, to undergo an assessment for treatment.



# Intervention Deflection

- Law Enforcement Assisted Diversion (LEAD)
  - Started in Seattle, Washington in 2011. Similar models now exist nationwide
- Stop, Triage, Engage, Educate and Rehabilitate (STEER)
  - Implemented in Maryland in 2016 by the Montgomery County Police Department



# Prevention Deflection

- During routine activities such as patrol or response to a service call, a first responder engages individuals and provides a referral to treatment, social services, or to a case manager.
- Different from intervention deflection in that the individual does not face criminal charges.
- Both LEAD and STEER operate as prevention deflection initiatives when law enforcement engage with individuals who have not committed chargeable offense(s).



# Post-overdose Response (“naloxone plus”) Deflection

First responder attempts to engage an individual in treatment as part of an overdose response, preferably at the point of overdose or as close to the point of overdose as possible, such as at the emergency department or during a home visit shortly thereafter.

# Post-overdose Response (“naloxone plus”) Deflection

- Drug Abuse Response Teams (DART)
  - First established in Ohio in 2014 before expanding elsewhere.
  - Law enforcement officers respond to area hospitals for communication with overdose victims and their families.
- Quick Response Teams (QRT)
  - First established in Ohio in 2015 before expanding elsewhere.
  - Responds to overdose-related medical emergencies and also provides follow-up to individuals within three to five days of their overdose.

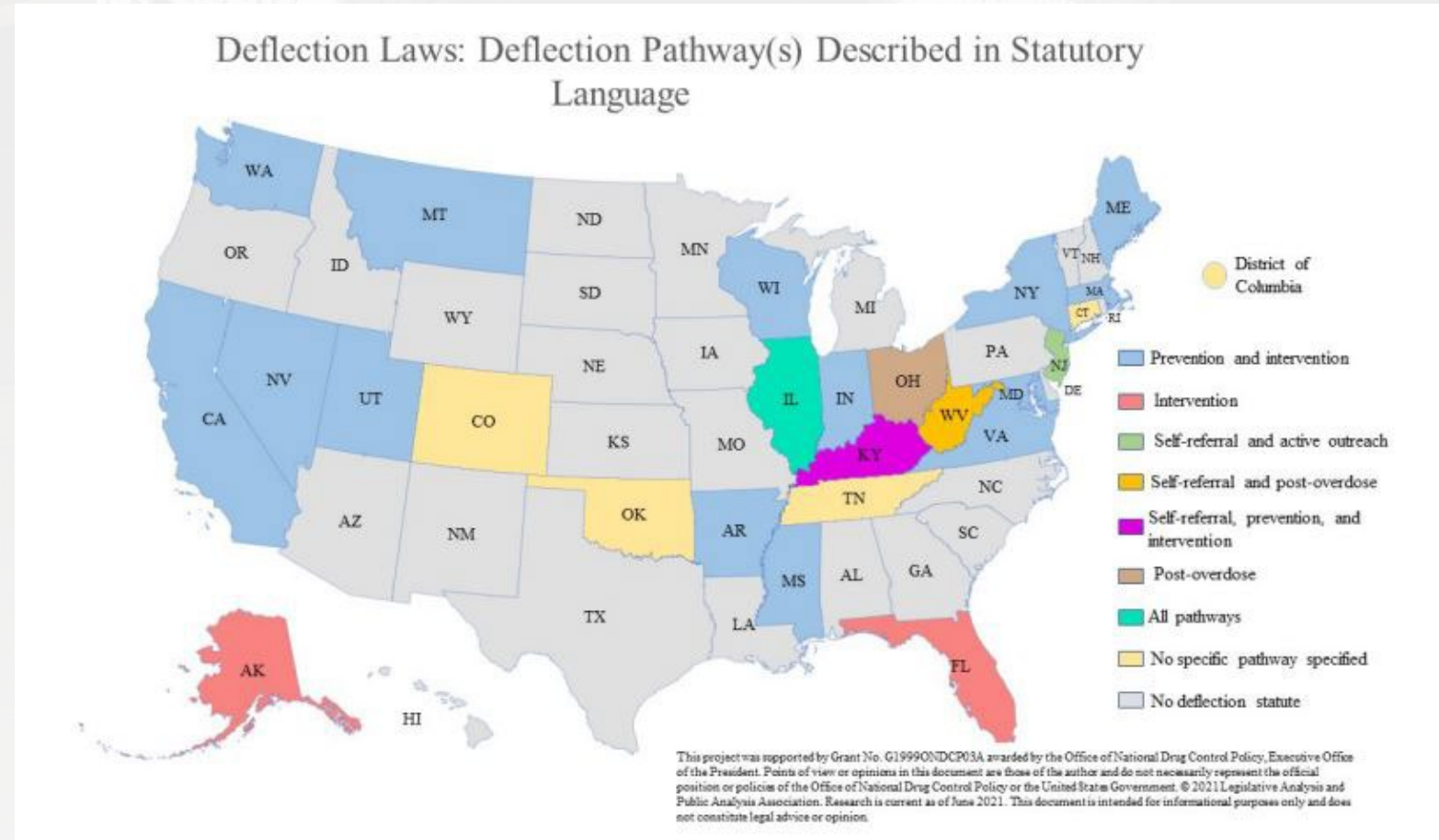


# Self-referral Deflection

- Individual initiates contact with law enforcement or other first responders to receive a referral for treatment without fear of arrest
- ANGEL Program
  - Originated in Gloucester, Massachusetts in 2015 and has expanded to other states
  - Individuals can walk into a police department, request help, and officers will connect them to treatment options
  - Officers will dispose of any drugs or drug paraphernalia in an individual's possession and not charge the person with a crime

# Deflection in State Law

- As of June 2021, 25 states and DC explicitly encourage deflection initiatives in statute
- Illinois is the leader in deflection legislation
  - Law enacted in 2018
  - Current version of the law addresses all pathways of deflection
  - 50 ILL. COMP. STAT. ANN. 71/1, *et seq.* (West 2024)-Community Partnership for Deflection and Substance Use Disorder Treatment Act





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# MODEL LAW ENFORCEMENT AND OTHER FIRST RESPONDER DEFLECTION ACT

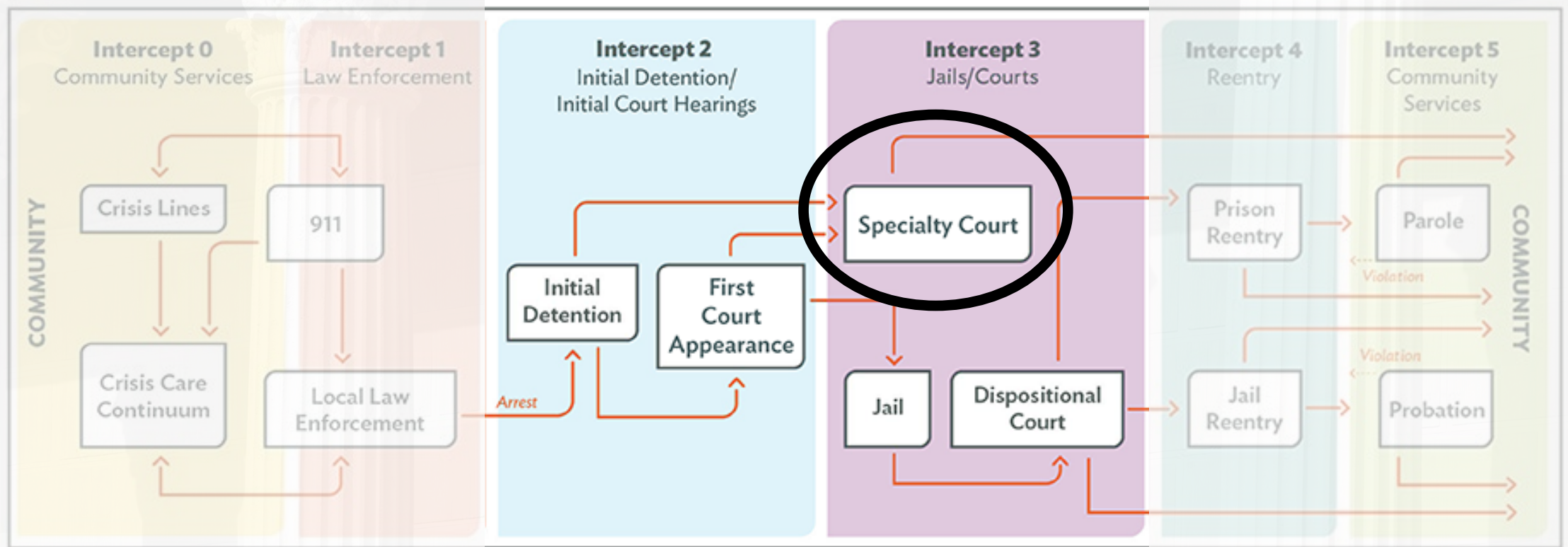
SEPTEMBER 2021



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# Drug Courts





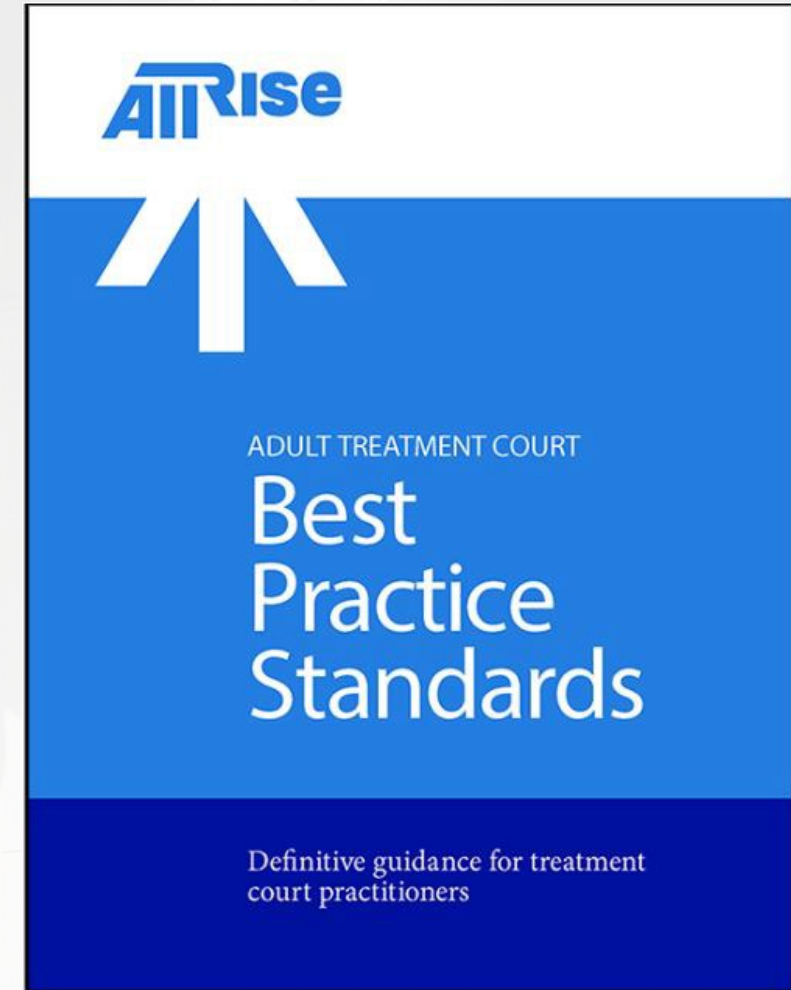
# Drug Courts

- Drug courts are an alternative to incarceration that combine public health and public safety approaches.
- Most successful with populations at high risk for committing new crimes or who have otherwise been unsuccessful under regular probation and who have a high need for treatment and other recovery support services.
- Usually managed by a non-adversarial and multidisciplinary team including both legal and treatment professionals.
- Over 4,000 drug courts in operation throughout the country.



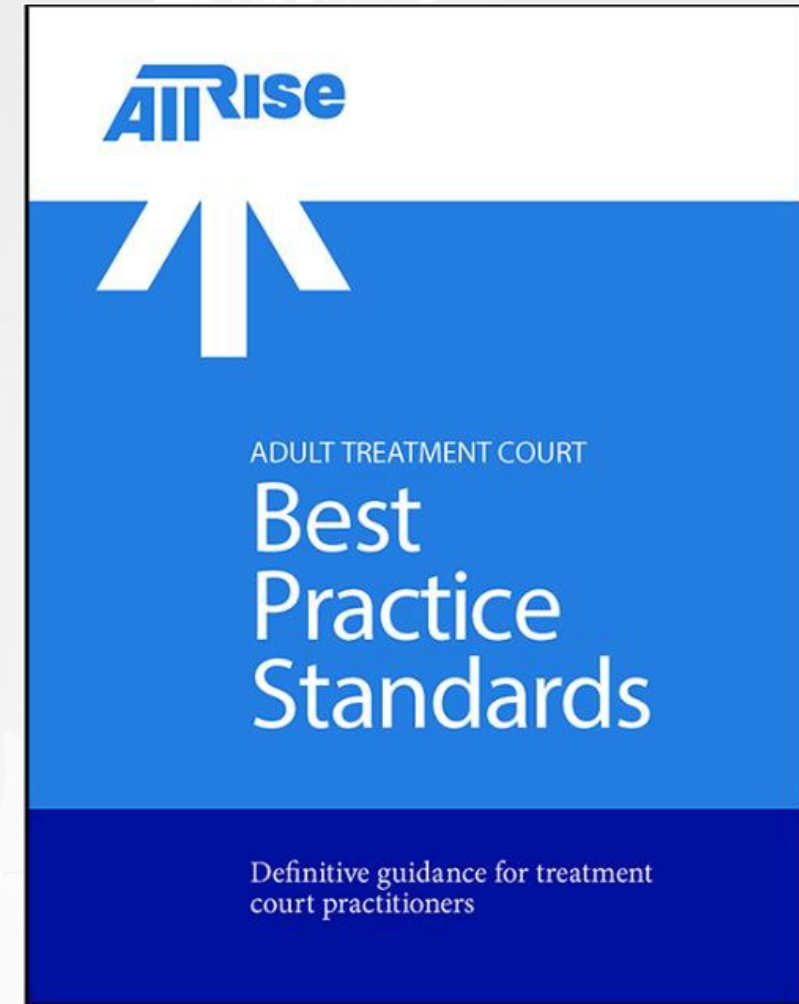
# Drug Courts and Medication for Addiction Treatment (MAT)

- MAT is a critical component of the evidence-based standard of care for high-need individuals.
- All decisions relating to the choice of medication, dosage, and duration of the medication regimen must be based exclusively on the judgment of qualified medical professionals.
- Candidates should not be excluded from drug court because they have been prescribed or need MAT, psychiatric medication, or other medications.



# Drug Courts and Medication for Addiction Treatment (MAT)

- Participants should not be required to reduce or discontinue MAT to complete the program successfully.
- Drug courts applying for federal funding through the Center for Substance Abuse Treatment and the Bureau of Justice Assistance must attest that they will not deny program entry to individuals receiving or seeking to receive MAT.





# ***United States v. The Unified Judicial System of Pennsylvania***

February 2024 – the U.S. Attorney’s Office for the Eastern District of Pennsylvania reached an agreement with the Unified Judicial System of Pennsylvania (UJS) to resolve allegations that UJS courts violated the Americans with Disabilities Act (ADA) by preventing individuals under court supervision from talking legally prescribed MAT.





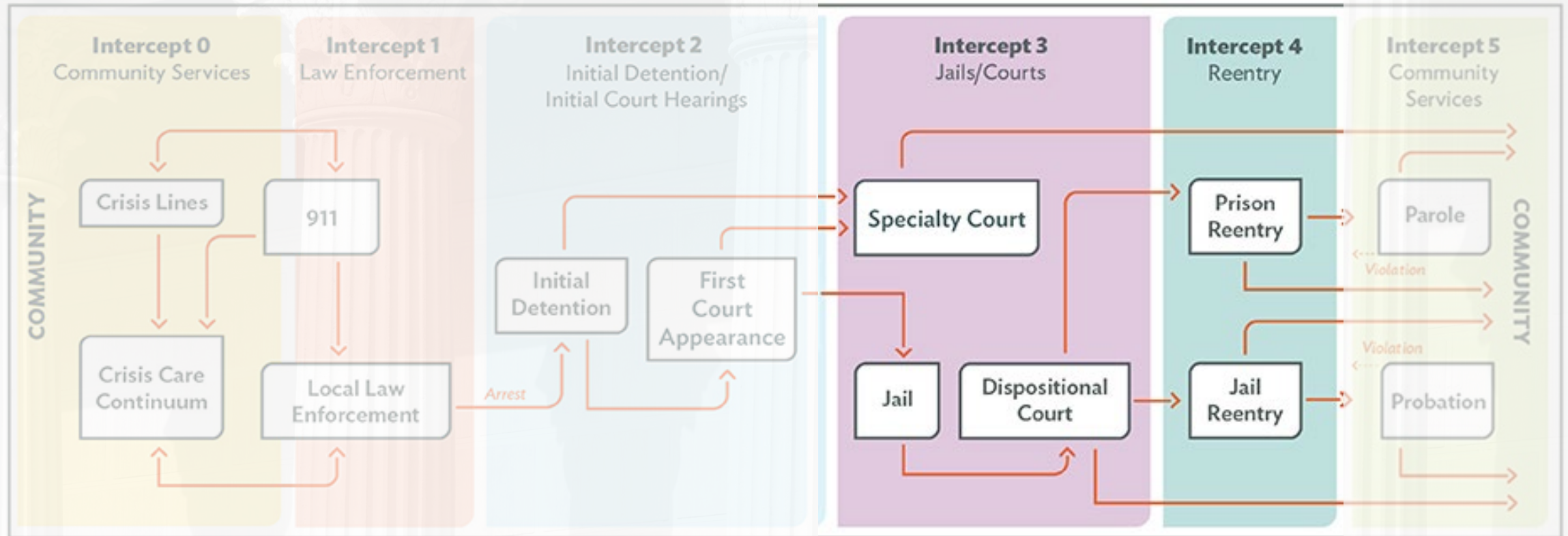
# *United States v. The Unified Judicial System of Pennsylvania*

- UJS ordered to pay \$100,000 to the victims and will train all state court criminal judges and treatment court professionals on the ADA and MAT.
- Named courts will adopt anti-discrimination policies related to MAT, and all other county courts will be encouraged to adopt similar policies.





# MAT in Correctional Settings





# Substance Use Disorder and Withdrawal Management in Correctional Settings

- Incarcerated individuals face disproportionate rates of substance use disorder (SUD).
- The Bureau of Justice Statistics reports that jail deaths involving drug or alcohol intoxication quadrupled between 2000 and 2019.
- About 40 percent of deaths in jail occur within the first seven days.

# Substance Use Disorder and Withdrawal Management in Correctional Settings

- Median time served for deaths in custody related to drug or alcohol intoxication is one day.
- Suicide is the leading cause of death in local jails, accounting for almost 30 percent of jail deaths.
- Individuals leaving incarceration are up to 129 times more likely than the general population to die of an overdose in the weeks following reentry.



# Withdrawal Management

“Withdrawal management” refers to the medical and mental health care of individuals who are experiencing withdrawal symptoms as a result of detoxification or the cessation or reduction of the use of drugs including, but not limited to, benzodiazepines, alcohol, opioids, stimulants.

# Withdrawal Management

Best practices for withdrawal management in correctional facilities:

- Allow qualified healthcare professionals to monitor those individuals within a safe housing environment;
- Incorporate specialized treatment for pregnant and postpartum individuals;
- Create defined protocols to prevent suicide and self-harm during and after cessation of substances; and
- Initiate or continue clinically appropriate medications, including MAT.



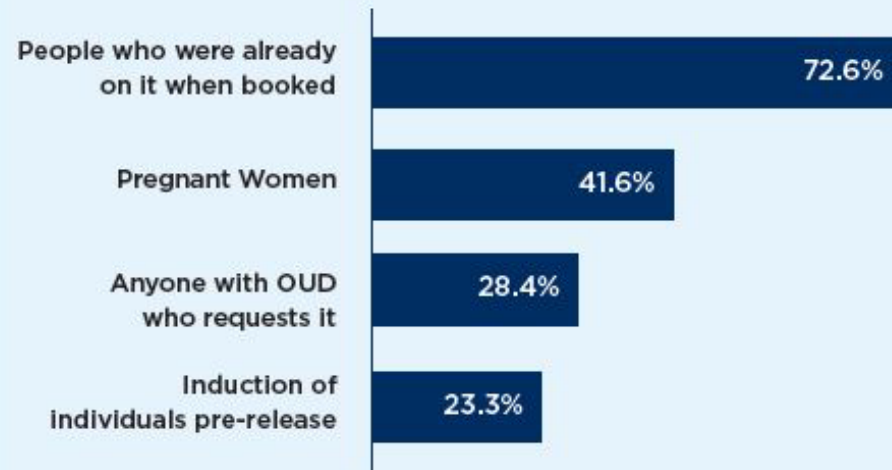
# MAT in Correctional Settings

- Rhode Island was the first state to provide its entire incarcerated population with all three forms of MAT.
  - Experienced a 60.5 percent decrease in post-incarceration deaths in the year after the program's implementation.
- The Biden Administration's National Drug Control Strategy establishes a goal of increasing the number of jails and prisons offering MAT by 50 percent by 2025.

# MAT in Correctional Settings

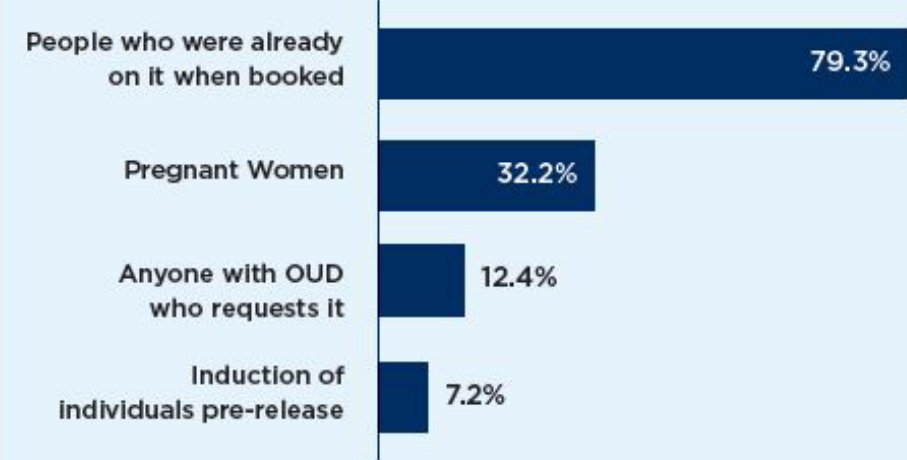
A 2023 Justice Community Opioid Innovation Network (JCOIN) survey of U.S. jails found that 30 percent of jails provide buprenorphine, 20 percent provide methadone, and 23 percent provide naltrexone.

## AMONG JAILS THAT PROVIDE BUPRENORPHINE: WHO IS IT AVAILABLE TO?



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## AMONG JAILS THAT PROVIDE METHADONE: WHO IS IT AVAILABLE TO?

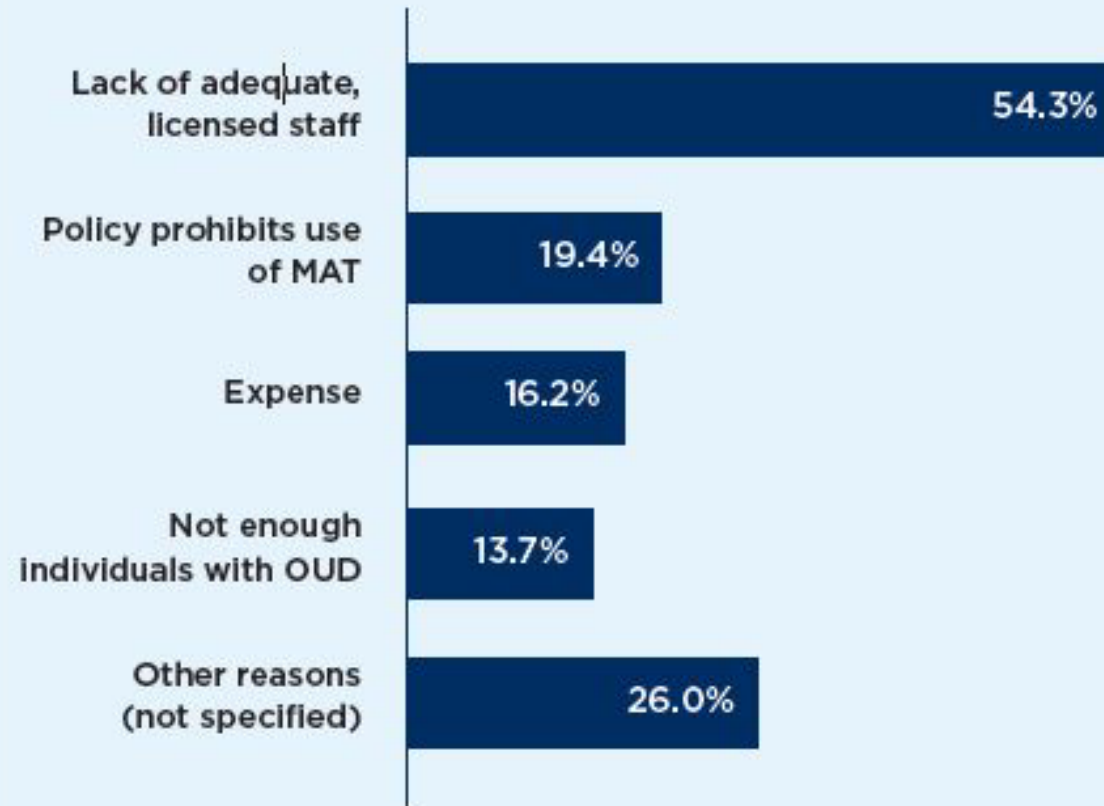


This question was a select all that apply; % do not add to 100%.

JCOIN/O'Neill Institute



## AMONG JAILS THAT OFFER SUD SERVICES, BUT DO NOT OFFER MAT, REASONS INCLUDE:



JCOIN/O'Neill Institute

# Legal Considerations

- In 2022, The U.S. Department of Justice's (DOJ) Civil Rights Division issued guidance outlining ADA protections for people with opioid use disorder and people prescribed MAT.
- A jail's blanket policy prohibiting the use of MAT violates the ADA.
- The DOJ has taken enforcement action against facilities that have failed to provide MAT.
- Failure to provide MAT may also result in a violation of the Eighth Amendment for individuals in prison and the Fourteenth Amendment for pretrial detainees,





# MAT Related Lawsuits and Settlements

- *Disability Rights New Mexico v. Alisha Tafoya Lucero, et al.*
  - Federal District Court for the District of New Mexico approved a settlement between Disability Rights New Mexico and the New Mexico Corrections Department to allow incarcerated individuals with opioid use disorder to continue taking buprenorphine when they enter custody.

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Case Law Monitor

ACLU

# MAT Related Lawsuits and Settlements

- Big Sandy Regional Jail Authority
  - U.S. Attorney's Office for the Eastern District of Kentucky reached an agreement with the jail authority to provide all three forms of MAT to those who need it, including to those inmates who did not have a prescription for such treatment prior to incarceration.

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# Withdrawal Management Related Lawsuits

**Lack of care in Deschutes County Jail led to death of 22-year-old who took her life while suffering drug withdrawal, suit says**

Updated: Feb. 13, 2024, 5:46 p.m. | Published: Feb. 13, 2024, 12:03 p.m.

**Rio Arriba County faces death lawsuit after inmate overdose**

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Updated: 7:40 PM MST Nov 8, 2023

**Family of Lansing man who died in Clinton County Jail files lawsuit, alleging failure to provide medical care**

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# MODEL ACCESS TO MEDICATION FOR ADDICTION TREATMENT IN CORRECTIONAL SETTINGS ACT

October 2020



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# MODEL WITHDRAWAL MANAGEMENT PROTOCOL IN CORRECTIONAL SETTINGS ACT

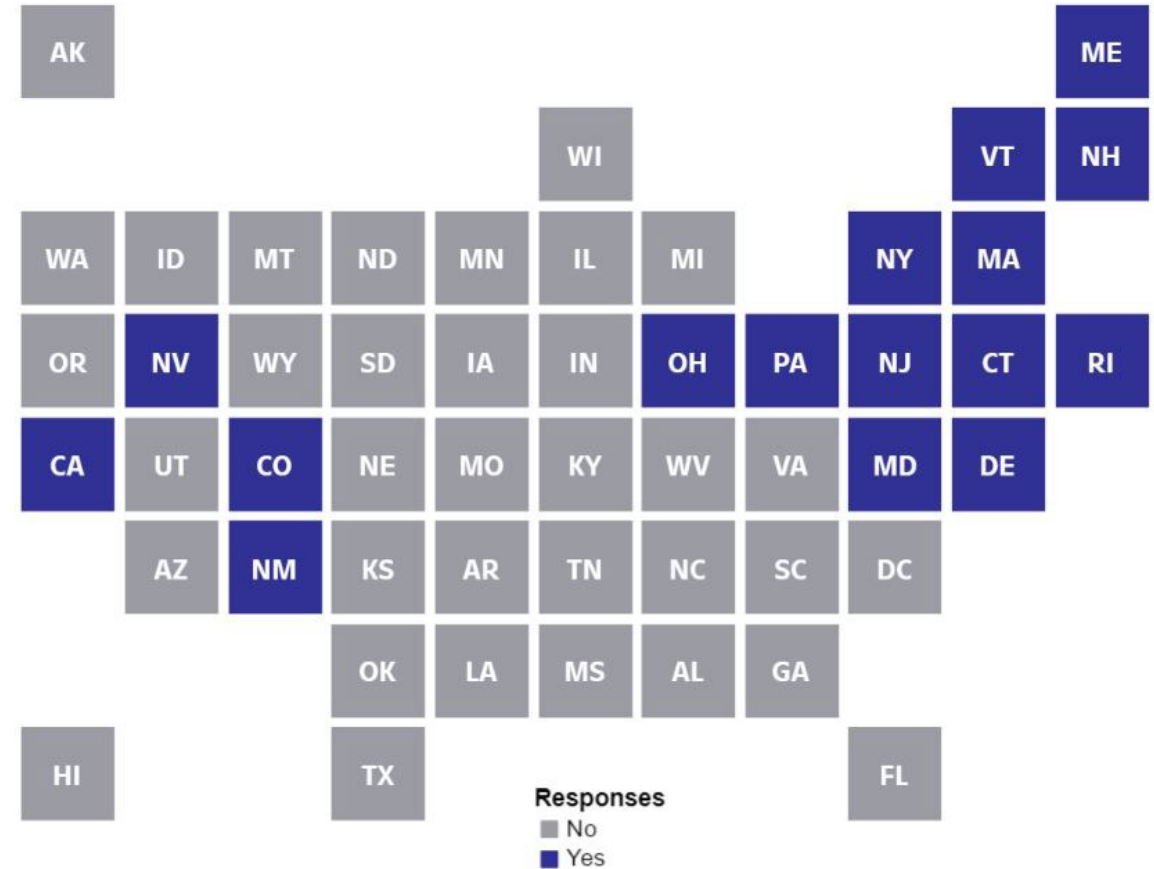
JUNE 2021



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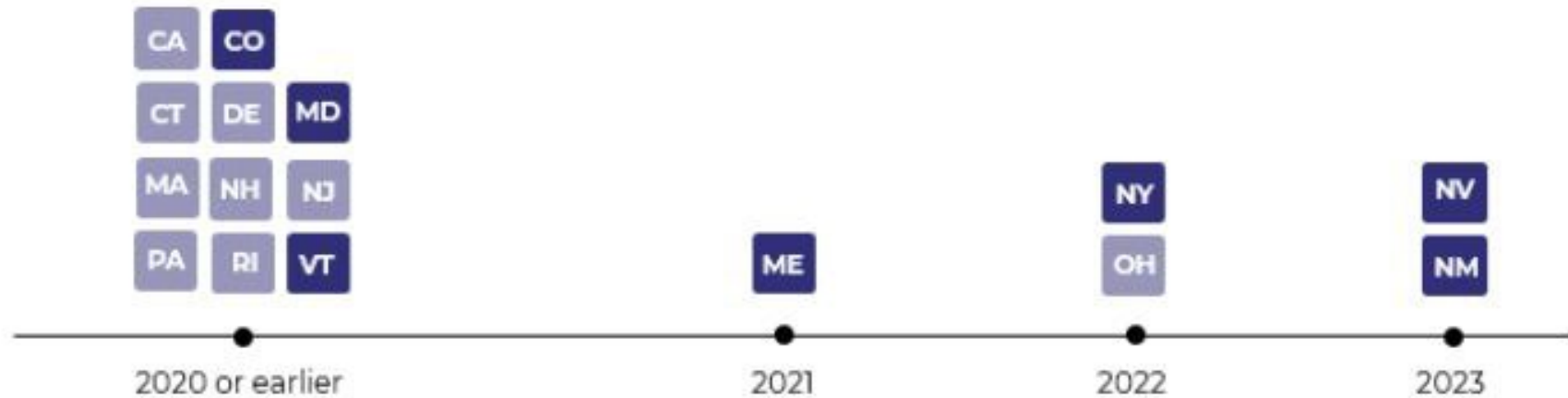
# MAT Laws and Policies

- As of September 2023, 16 states have requirements to implement MAT in all, or nearly all, state or local correctional settings.
- A 2023 Utah law allowed county and municipal jails to provide MAT – May 2024 amendment expanded the law to state prisons.





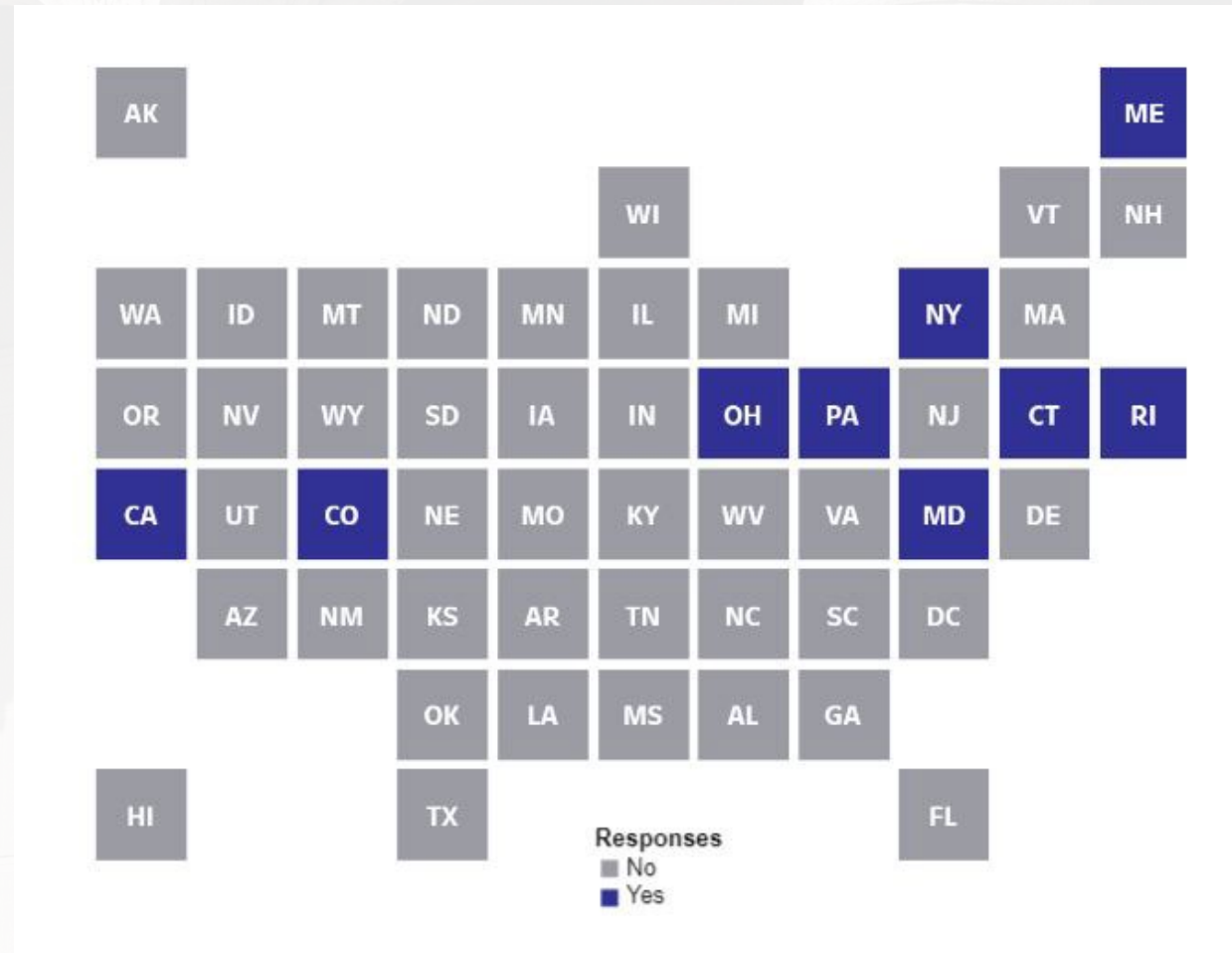
# MAT Laws and Policies



- States with statutory provisions requiring access to MAT in state and local correctional settings as of September 2023
- States that have implemented MAT in correctional settings via state policy/contract with an MAT organization/budget allocation as of September 2023

# Withdrawal Management Laws and Policies

As of June 2023, nine states require state and/or local correctional settings to provide withdrawal management service via either statewide law or protocol/policy

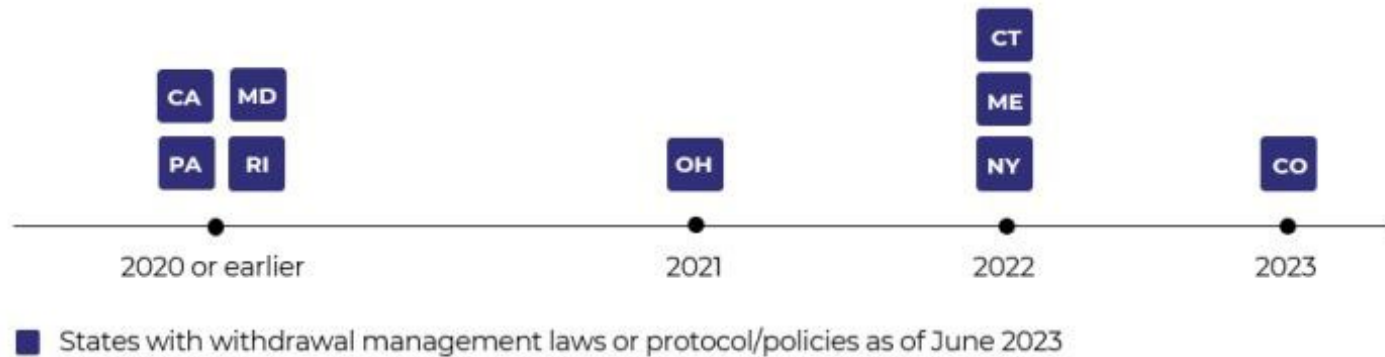




# Withdrawal Management Laws and Policies

## Implementation Timeline: Withdrawal Management in Correctional Settings

Nine states have laws, protocols, or policies that require withdrawal management protocols in correctional settings



# QUESTIONS?

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