




**So, we're not supposed to use jail:  
What do we do instead?**

*Alternatives to Incarceration*

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A person wearing an orange jumpsuit is shown from the chest up, standing behind vertical metal bars. The person's hands are gripping the bars. The background is dark and out of focus.

## Why do we use jail?

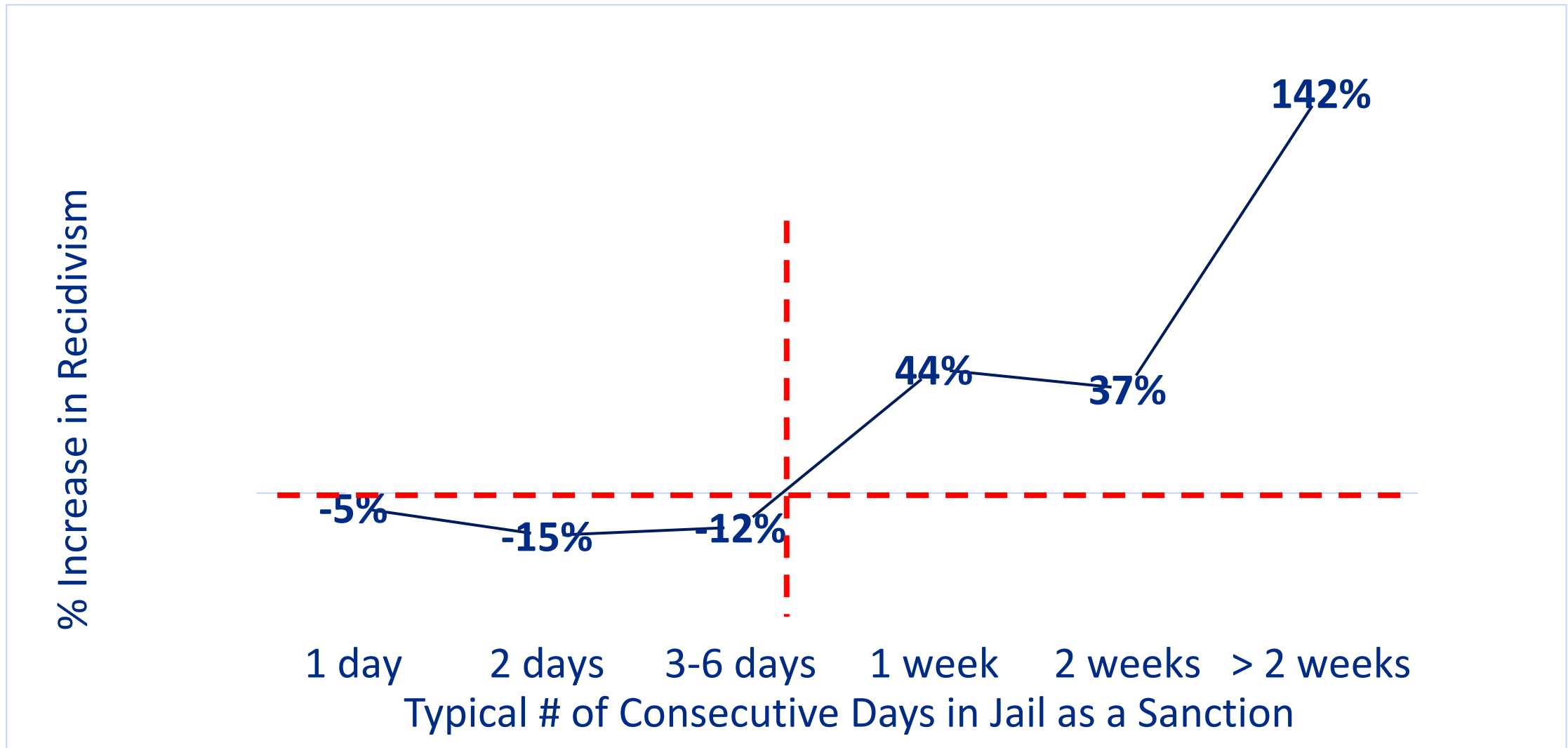
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- Punishment
- To change participant behavior
- To stop a behavior we don't want them to do
- To get participants to take the court seriously (teach them a lesson)
- Public safety

So, what's wrong with jail?



## Courts that typically impose jail longer than 6 days have higher recidivism



\*Not the best public safety choice in the long run

# What lessons will they learn?

- ❑ Chaos, violence, injury
- ❑ Life disruption – people can lose
  - housing
  - job
  - kids
  - relationships
  - insurance (have to reapply for Medicaid)
- ❑ Drugs can be easily procured in the jail, information on contacts to get better, cheaper drugs
- ❑ New “friends” - They are spending time with the people you are telling them to avoid!
- ❑ Learned helplessness/Trauma





# What if...

- You're afraid they will overdose?
- You're holding them for a treatment bed?
- They're homeless and have nowhere to go?



# Overdose risk:

- ❖ Any state of forced abstinence via incarceration or mandatory hospitalization (inpatient) is the main driver of OD risk
- ❖ Compared to the rest of the adult population, the opioid-related overdose death rate is 120 times higher for persons released from prisons and jails.
- ❖ In the first two weeks after being released from prison, former inmates were 40 times more likely to die of an opioid overdose than someone in the general population.





# Overdose risk:

- ❖ A full year after release, overdose death rates remained 10-18 times higher among formerly incarcerated individuals
- ❖ Patients who “successfully” completed inpatient detoxification were more likely than other patients to have died within a year.
- ❖ Inmates frequently overdose IN THE JAIL or they can die from withdrawal in the jail



# 3 Female Inmates OD'd on "Unknown White Powder"

**BREAKING NEWS**



8 INMATE



DENVER  
TEL.COM

**INMATES SUSPECTED IN DRUG OVERDOSE  
DENVER JAIL**

**BREAKING NEWS**

**NEWLY RELEASED VIDEO SHOWS INMATE DEATH  
CUYAHOGA COUNTY JAIL**

**BREAKING NEWS BREAKING NEWS BREAKING NEWS**

But our jail sanctions  
are just for a few days

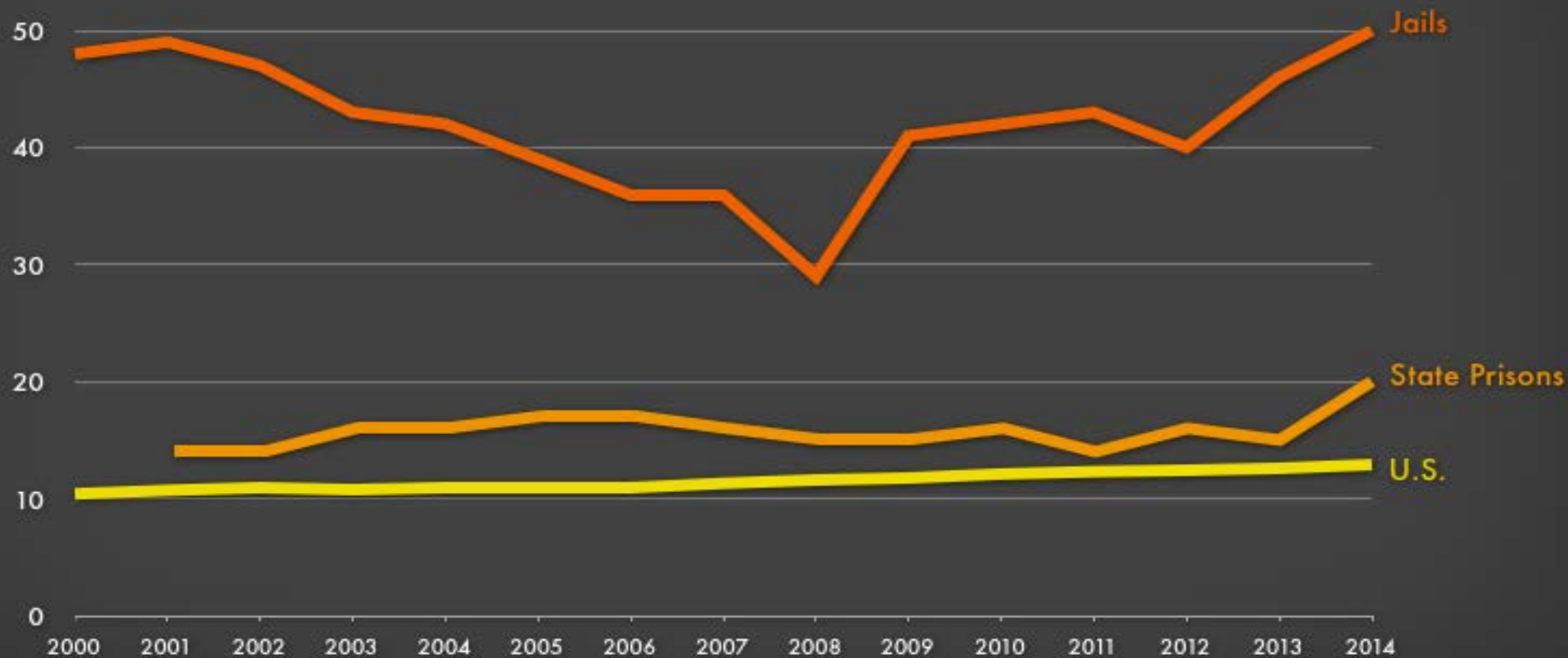


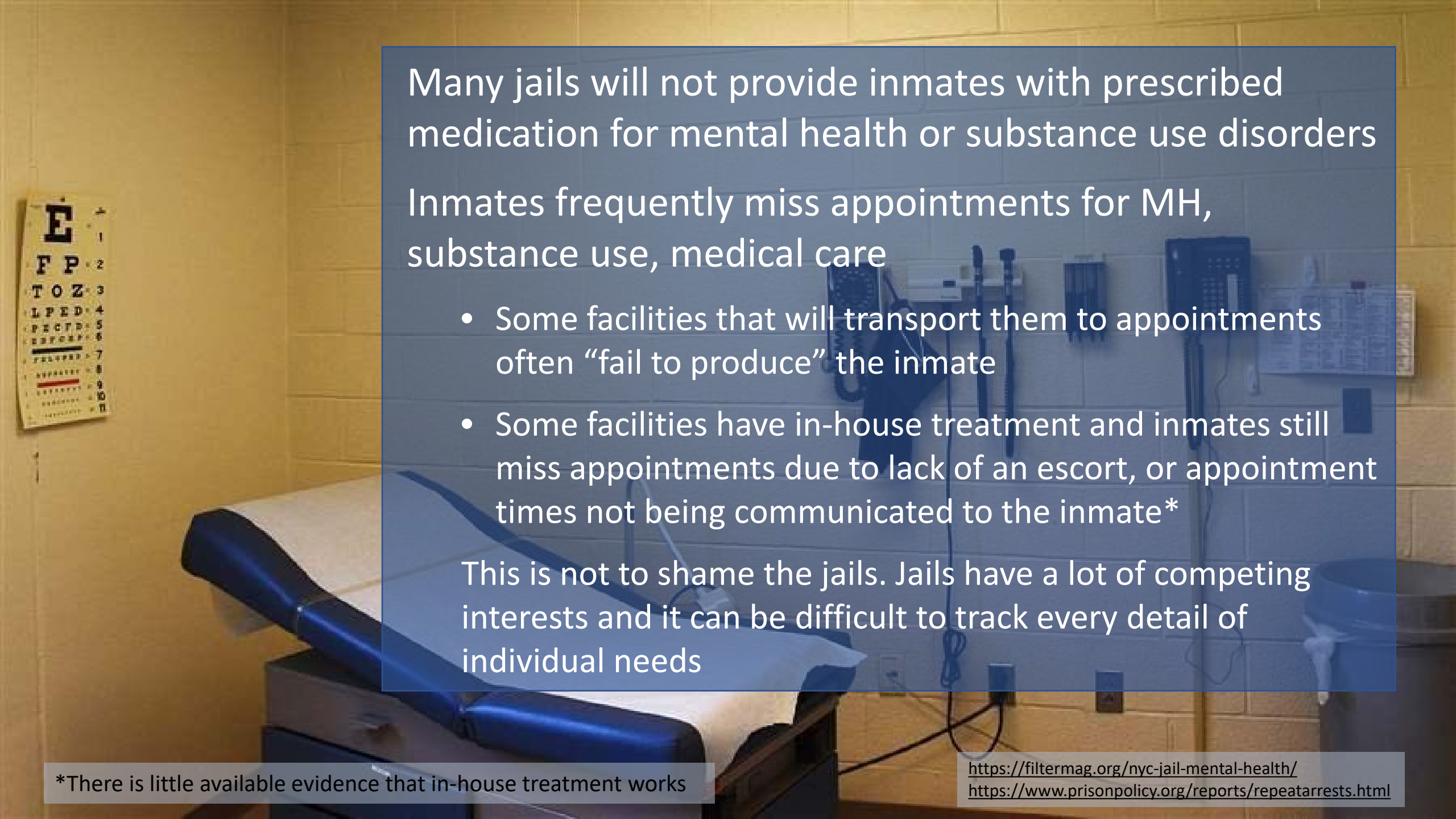
Just a few days in jail can result in harm for people with severe substance use disorder, serious mental health disorders, or other medical needs.

- 41% of jail deaths occur within the first week of a person's jail stay
- 26% of jail suicides occur within just three days of entry

# JAIL SUICIDE RATES: OUT OF STEP WITH THE NATION (AND U.S. PRISONS)

(Number of people per 100,000 in jail, in prison, and in the country who commit suicide per year)





Many jails will not provide inmates with prescribed medication for mental health or substance use disorders  
Inmates frequently miss appointments for MH, substance use, medical care

- Some facilities that will transport them to appointments often “fail to produce” the inmate
- Some facilities have in-house treatment and inmates still miss appointments due to lack of an escort, or appointment times not being communicated to the inmate\*

This is not to shame the jails. Jails have a lot of competing interests and it can be difficult to track every detail of individual needs

\*There is little available evidence that in-house treatment works

<https://filtermag.org/nyc-jail-mental-health/>  
<https://www.prisonpolicy.org/reports/repeatarrests.html>

# Other (non-lethal) impacts



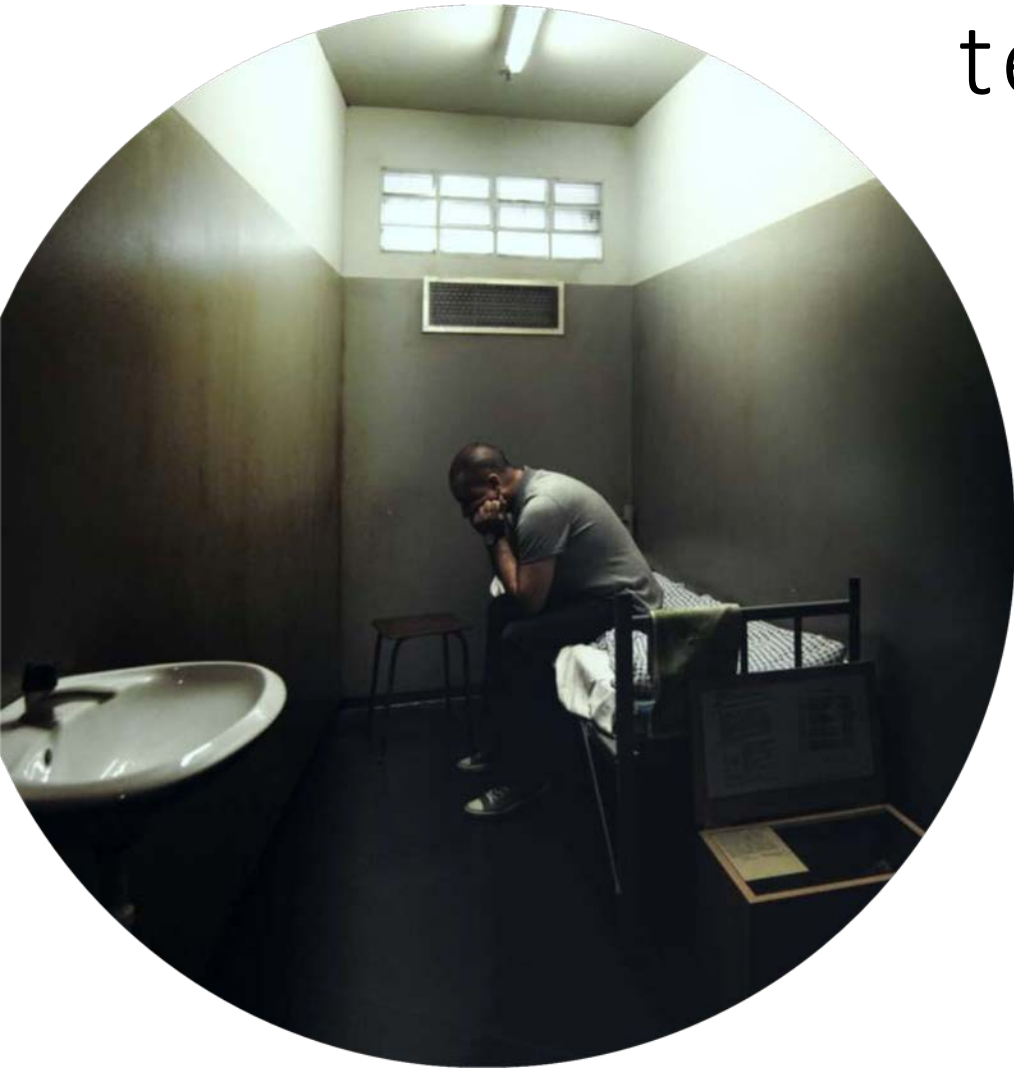
- Learned helplessness
- Loss of hope
- Depression
- Trauma
- Numb

Participant - "It's great to meet us where we are, but you also gotta meet us *where we wanna be*"

Harsh sanctions like jail reinforce the feeling that once an 'addict/criminal' always an addict/criminal.

It's a drug court's role to hold people accountable, but it should also be helping them truly believe that they're don't belong in jail anymore.

But some of our participants tell us that jail works!



“I didn’t realize you were serious until you put me in jail”

- ✓ Who are these participants? (Risk and need levels)
- ✓ Check your targeting
- ✓ How long did you put them in?
- ✓ Is this about you or them?

Sometimes our participants can be infuriating and it makes you feel better

*\*Jail is least effective for high risk/high need*







Sometimes you use jail  
because you're afraid of  
people dying

### *Legal Considerations*

There is no question that you do have the power to use jail – the question is *should* you?

- ✓ If you do, you must do it correctly/legally (e.g., through a civil commitment)
- ✓ Depends on whether you're a pre-trial or post adjudication
  - ✓ Can remand people on a violation of probation but not if participant is not on probation
  - ✓ Be careful with having your record say that it's pending a treatment bed (may be violating the American with Disability Act, the 8<sup>th</sup> amendment...)





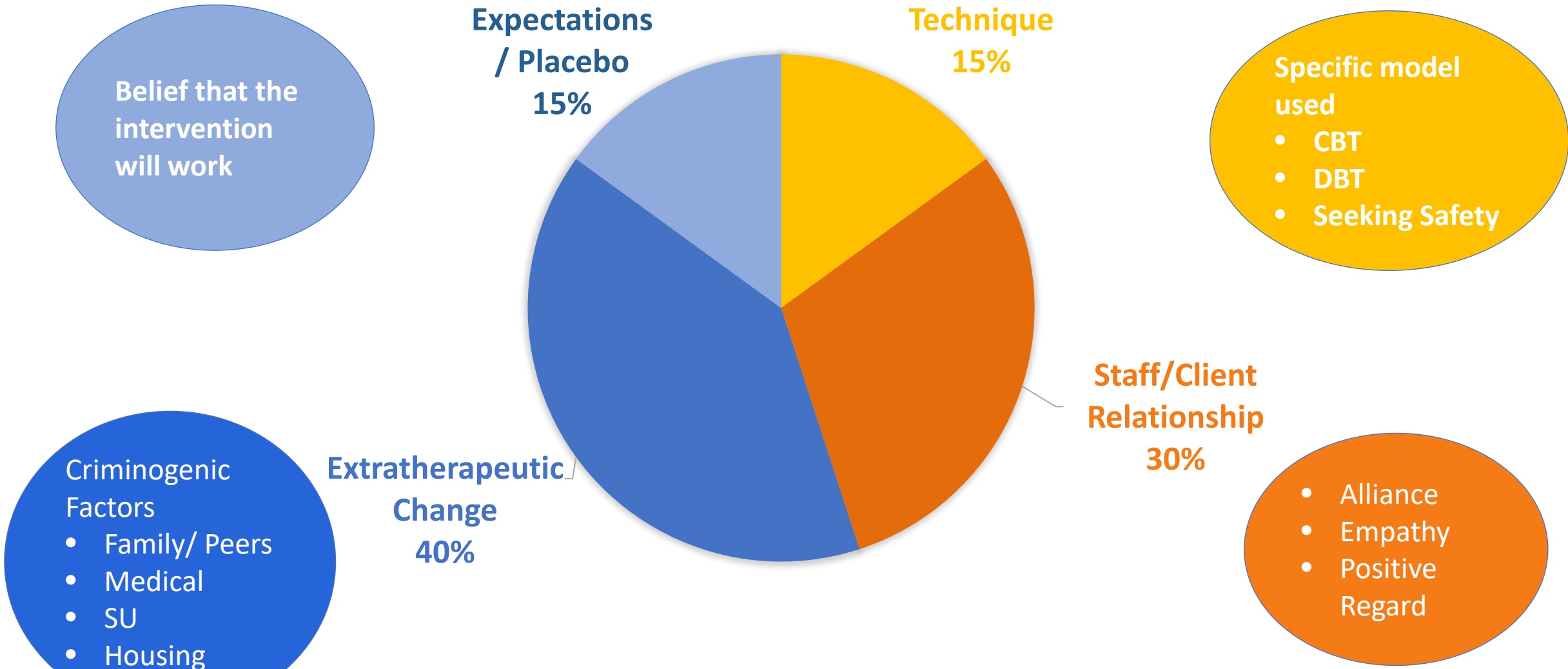
Sometimes we use jail because we don't have anything else readily available on our menu

Part of the reason for this training is to help you develop your menu



What can you do instead?

# What leads to behavior change?



Let's look at these again  
What if...

- You're afraid they will overdose?
- You're holding them for a treatment bed?
- They're homeless and have nowhere to go?



# Overdose risk...

- Provide participants with Naloxone
- Train participants and their families and friends how to use Naloxone
  - <https://www.drugabuse.gov/publications/drugfacts/naloxone>
  - <https://www.getnaloxonenow.org/#getnaloxone>
- Evaluate for all forms of MAT and provide if appropriate (e.g., meds for opioids, meds for depression, etc.)



# Overdose risk...

- Build capacity for MAT in the community
- Consider: Have been managing in the community so far. Talk to them about their plan to stay safe. Work with them to connect with friends or family
- Consider: Will they be safer in the jail? Is there MAT in the jail? If so, is there a connection for a warm handoff in the community?



**KNOW YOUR JAIL**

# Holding for a treatment bed...

- Not legal (can hold on a violation if they must be incarcerated)
- If they did not want to go to residential on their own, unless treatment bed is in locked facility, they can, and will, walk away
- Like all others who need residential treatment, they have been managing in the community so far. Wrap them with services and increase monitoring.



**KNOW YOUR JAIL**



# Housing

- Have they managed in the community so far?
- Are there homeless shelters in the community? Are there food banks or other food options in the community?
- Work on building capacity for housing, shelter, food in the community
- Is it life threatening for them to remain without shelter (danger from others, weather, medical health issues, starvation)? Will they be safer in the jail?

\*Watch the law



**KNOW YOUR JAIL**



## What if they are just behaving badly?

- Not showing up
- Refusing to engage in treatment
- Skipping drug tests
- Testing positive
- Etc.

# Prevention

“An ounce of prevention is worth a pound of cure”

There are key processes you can incorporate into your program that may prevent the inappropriate behavior

- Learn who your participants are and meet them where they're at
- Do integrated case planning – include the participants in making the plan
- Address medical issues – particularly pain
- Ensure reliable detection of behavior and respond consistently
- **Use Incentives!**



# Know your participants

- Criminogenic needs
- SUD/MH diagnosis and needs
- Responsivity needs/  
Biopsychosocial (Barriers to  
engagement)





EXAMPLE:  
TRAS  
RISK DOMAINS/  
CRIMINOGENIC  
NEEDS

# Criminogenic Needs

1. Criminal History
2. Peer Association
3. Criminal Attitudes And Behavior
4. Anti-social patterns/Personality
5. Education/Employment/Financial
6. Family And Social Support
7. Leisure Activities/Living Sit.
8. Substance Use

# Clinical Needs – Example ASAM Criteria

<b>1</b>	<b>DIMENSION 1</b>	<b>Acute Intoxication and/or Withdrawal Potential</b> Exploring an individual's past and current experiences of substance use and withdrawal
<b>2</b>	<b>DIMENSION 2</b>	<b>Biomedical Conditions and Complications</b> Exploring an individual's health history and current physical condition
<b>3</b>	<b>DIMENSION 3</b>	<b>Emotional, Behavioral or Cognitive Conditions and Complications</b> Exploring an individual's thoughts, emotions and mental health issues

# Clinical Needs – Example ASAM Criteria

	<b>DIMENSION 4</b>	<b>Readiness to Change</b> Exploring an individual's readiness and interest in changing
	<b>DIMENSION 5</b>	<b>Relapse, Continued Use or Continued Problem Potential</b> Exploring an individual's unique relationship with relapse or continued use or problems
	<b>DIMENSION 6</b>	<b>Recovery/Living Environment</b> Exploring an individual's recovery or living situation and the surrounding people, places, and things



EXAMPLE: DAILY  
LIVING  
ASSESSMENT  
(DLA-20)

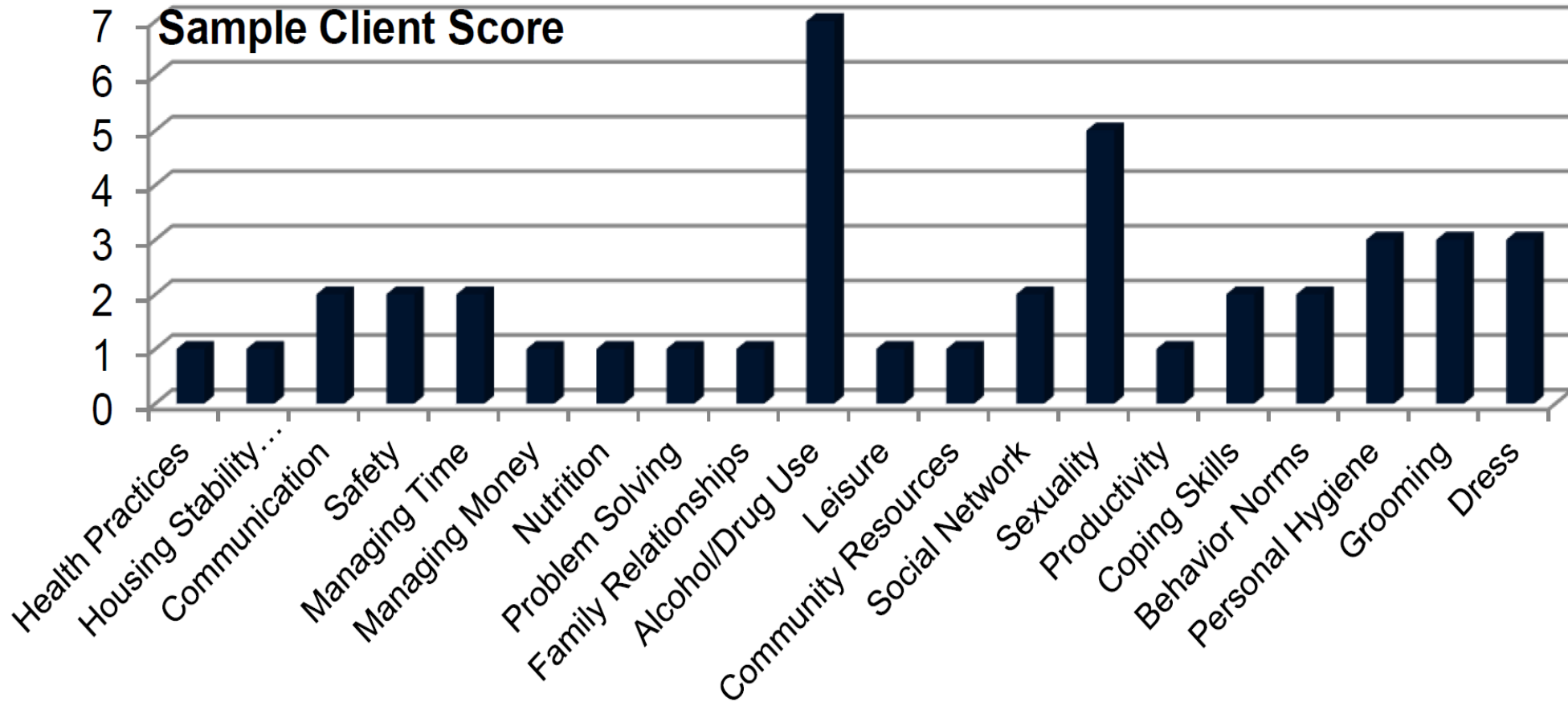
# Identify Barriers to Engagement

The DLA assesses their current behavior in 20 activities of daily living:

- Health status and practices
- Household stability
- Communication
- Safety
- Managing time
- Nutrition
- Relationships
- Alcohol and drug use
- Sexual health and behavior
- Personal care and hygiene

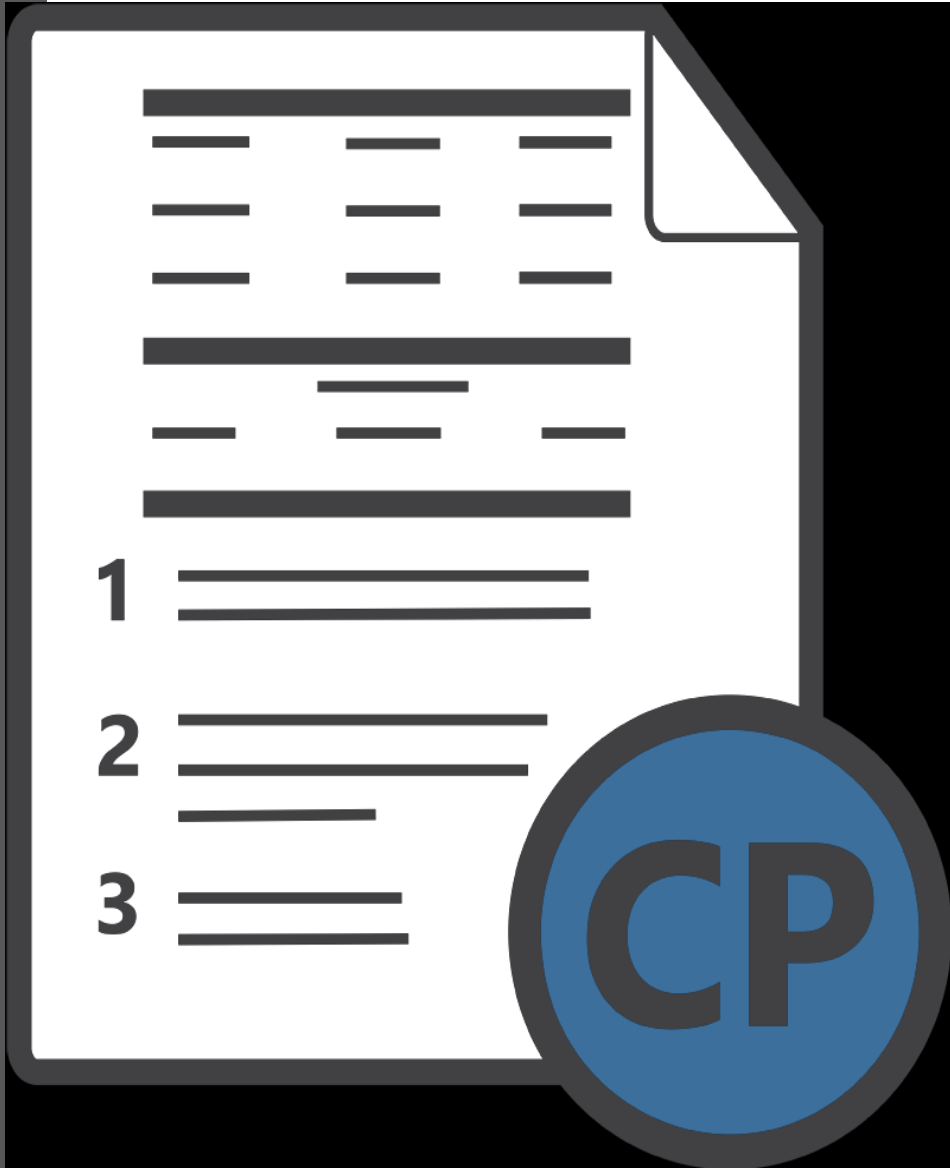


# EXAMPLE: DAILY LIVING ASSESSMENT (DLA-20)



# Create Integrated Individualized case plans





Develop a case plan with the participant's full input including:

- **Match the participants abilities and step up over time (might need to start small)**
- Word the goals that address their criminogenic needs so they make sense to the participant.
- Identify how working on each relevant risk factor will help achieve their personal long-term goals (not just yours).
- Help brainstorm and have input on the action steps.
- Identify the barriers and obstacles to working in the action steps.
- Identify incentives that will help them work on the actions steps and achieve the goal.

WHEN PARTICIPANTS FEEL THEY HAVE A CHOICE,  
THEY ARE MORE LIKELY TO FOLLOW THE PLAN

# Address physical/ medical issues

## Assess for medication assisted treatment (MAT)

- Work with medical and treatment community
- Prescribers
- Treatment Providers
- Know what's available in your community and state
- Education for the team – take NDCI's online MAT course

# Address physical/ medical issues

- Conduct a medical assessment (health issues) – Our participants are ill with a disease that often leads to other physical and mental ailments, and to behavior issues
  - Include history of medication use
- Assess for pain!
  - Get them into pain management
  - Meditation, yoga, physical therapy, acupuncture

(Mindfulness-Oriented Recovery Enhancement resulted in reduced pain and cravings) - <https://drericgarland.com/m-o-r-e/>



# Reliable Detection



- Urine drug testing at least twice per week
- Random testing all 7 days
- Continuous detection methods (patches, bracelet)
- Electronic monitoring
- Home visits (Extend supervision into natural social environment - work, home, school, street, cell phones)
- Include law enforcement on the team
- Case manager, supervision, treatment



Consistent Responses:  
Use a Response Matrix

## Positive Behavior

### Incentive Matrix: "What do we want the participant to learn from this?"

#### Step 1. Identify the Behavior

Proximal (Expect Sooner)	Moderate	Distal (Expect Later)
<ul style="list-style-type: none"> <li>Attendance at treatment</li> <li>Attendance at other appointments</li> <li>Home for home visits</li> <li>Report to UA</li> <li>Timeliness</li> <li>Payment</li> </ul>	<ul style="list-style-type: none"> <li>Honesty</li> <li>Testing Negative</li> <li>Participating in Prosocial Activities</li> <li>Employment</li> <li>Progress toward Tx Goals</li> <li>Progress in Tx</li> </ul>	<ul style="list-style-type: none"> <li>Complete Tx LOC</li> <li>Extended Abstinence/Neg. Tests</li> <li>Treatment Goals Completed</li> <li>Phase Goals Completed</li> <li>Program Goals Completed</li> </ul>

#### Step 2. Determine the Response Level

		Proximal (Expect Sooner)	Moderate	Distal (Expect later)
Distal ↓ Prox	Phase 1	Small	Medium	Large
	Phase 2	Small	Medium	Large
	Phase 3		Small	Large
	Phase 4		Small	Large
	Phase 5		Small	Medium

#### Step 3. Choose the Responses (Paired with Judicial Approval/Verbal Praise)

##### 3a. Therapeutic Response

	Phase 1	Phase 2	Phase 3	Phases 4 and 5
Single Event	<ul style="list-style-type: none"> <li>Behavior Chain</li> <li>Cost/Benefit Analysis</li> </ul>	<ul style="list-style-type: none"> <li>Behavior Chain</li> <li>Cost/Benefit Analysis</li> </ul>	<ul style="list-style-type: none"> <li>Behavior Chain</li> </ul>	<ul style="list-style-type: none"> <li>Behavior Chain</li> </ul>
Continued Progress		<ul style="list-style-type: none"> <li>Change in LOC</li> <li>(FTC) Increased visitation with child</li> </ul>	<ul style="list-style-type: none"> <li>Aftercare Fqcy</li> <li>Re-evaluate Pharmacological Interventions</li> </ul>	<ul style="list-style-type: none"> <li>Aftercare Fqcy</li> <li>Re-evaluate Pharmacological Interventions</li> </ul>

##### 3b. Supervision Responses

Phase 1	Phase 2	Phase 3	Phases 4 and 5
<ul style="list-style-type: none"> <li>Change in Curfew Status</li> </ul>	<ul style="list-style-type: none"> <li>Reduced Contacts</li> <li>Reduction in Home Visits</li> </ul>	<ul style="list-style-type: none"> <li>Reduced Contacts</li> <li>Reduce Home Visits</li> <li>Reduce in External Monitoring Devices</li> </ul>	<ul style="list-style-type: none"> <li>Reduced Contacts</li> <li>Decreased Drug Testing</li> </ul>

##### 3c. Incentive Response

Small	Medium	Large
<ul style="list-style-type: none"> <li>Judicial approval (always)</li> <li>Fish Bowl</li> <li>Decision Dollars</li> <li>Example for other participants in court</li> <li>Handshake</li> <li>Candy</li> <li>≤ 1 day reduction of curfew</li> <li>On the A Team</li> </ul>	<p><b>Any small and/or:</b></p> <ul style="list-style-type: none"> <li>≤ 3 day reduction of curfew</li> <li>Choice of Gift Certificate</li> <li>Supervisor Praise</li> <li>Written Praise</li> <li>Positive Peer Board</li> <li>Certificate</li> <li>Reduction in CS hours</li> <li>Reduction in program fees</li> </ul>	<p><b>Any small, medium or:</b></p> <ul style="list-style-type: none"> <li>Framed Certificate</li> <li>Travel Pass</li> <li>Larger Gift Certificate</li> <li>Position as Mentor to New Participants</li> </ul>





# Focus on Incentives

Number one incentive is  
acknowledgment from the  
judge

# Incentives

- Promote engagement in the program and in treatment
  - “I’m glad you’re here”
- Demonstrate positive regard
- Connect appropriate behaviors to positive feelings



# Alternatives to Jail

All of the above!

And

- Re-evaluate and Adjust treatment
- Increase monitoring
- Revise case plan



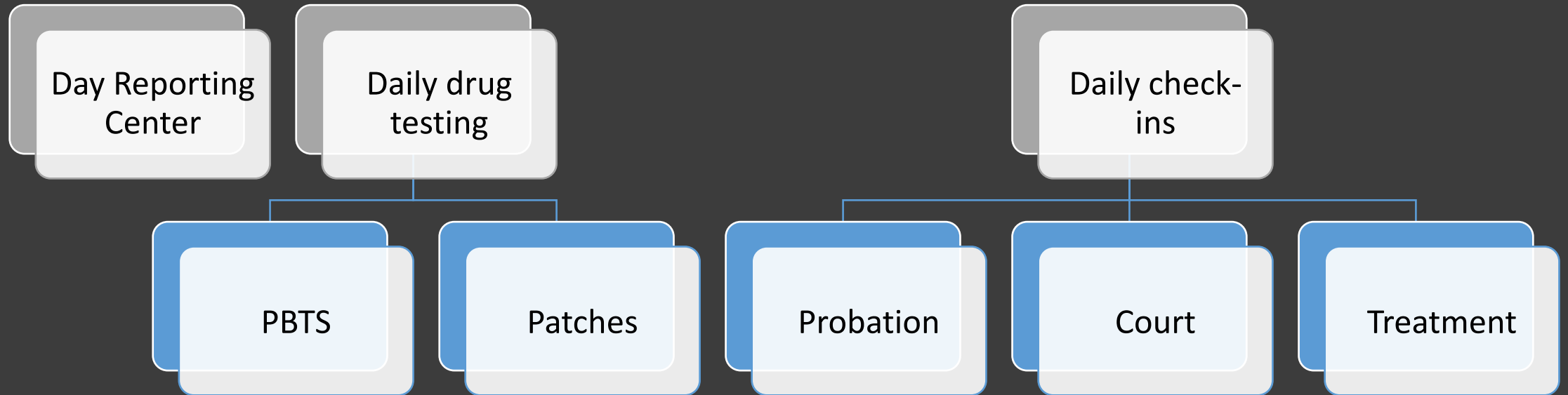


## Re-Evaluate and Adjust treatment

- Review level of SUD/MH care
- Enhance alliance with treatment and case manager/supervision
- Work with participant to discuss what treatment they will follow through with
- Work with participant on integrated case plan
- Engage with peer support (peer mentor, peer specialist)

**May need to develop new resources for some alternatives**

# Increase Monitoring



**\* May need to develop new resources for some alternatives**

# Increase Monitoring

- **Increase supervision**
  - House arrest/GPS
  - Increase supervision appointments
  - Increased home visits
  - Increase court hearings
  - Curfew
- **Other options (Therapeutic - Focus on Learning)**
  - Community service
  - Attend/watch court
  - Thought papers

\* May need to develop new resources for some alternatives

# STAFFING CONSIDERATIONS

- **WHO** are they (risk, need, responsivity)?
- **WHERE** are they in the program (what tools have they been given)?
- **WHY** did this happen (circumstances)?
- **WHICH** behaviors are we responding to?
  - Proximal or distal?
- **WHAT** is the response choice? (treatment or monitoring adjustment? Incentive? Sanction?)
- **HOW** do we deliver and explain response?



# Questions to ask when Considering Jail

1. What behavior do you want to stop?
2. Is the behavior dangerous to others? Or does it impact the safety or integrity of the court?
3. What is the intended impact of jail on the participant? With what you know about this participant, will jail have the intended impact? (Consider: What does your assessment say about risk and needs.)





# Questions to ask when Considering Jail

4. What will the impact of jail be on others (employer, family, etc.)?
5. What behavior do you want the participant to do instead?
6. Are there other responses that might incentivize them to do an alternate behavior?
7. If you do use jail, can you be creative to reduce the negative impacts?



**KNOW YOUR JAIL!**





## Contact:

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