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Mapping the Criminal Justice System to Connect Justice-Involved Individuals with Treatment and Health Care under the Affordable Care Act

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Introduction

State and local criminal justice systems are poised to change the way they do business. With the advent of the Patient Protection and Affordable Care Act (ACA), it is now possible for millions of low-income individuals in the criminal justice system to obtain insurance coverage for their physical and behavioral health care needs. This far-reaching system change will affect every decision point of the criminal justice system, from pretrial to reentry, and every partner, from correctional health to behavioral health.

The Affordable Care Act at a Glance

Medicaid Expansion

- **Expands coverage for health care and behavioral health care services to most low-income individuals.**
- **Provides coverage at 100% federal funding.**
- **Provides for reimbursement of administrative activity at 50% federal funding.**

Marketplace Insurance

- **Includes federal subsidies for qualifying individuals and families.**
- **Coverage is based on the essential health benefits, which include behavioral health care.**

A large number of individuals in the criminal justice system struggle with chronic health problems and mental health and substance abuse disorders. For example:

- Although HIV rates and AIDS deaths among state and federal prisoners have declined substantially over the past decade, the rate of HIV cases in correctional facilities is about 3.3 times the rate in the general population as of 2010. [i]
- According to the Centers for Disease Control and Prevention, 16–41 percent of individuals in prison are infected with Hepatitis C, versus about 1–1.5 percent in the general population.[ii]
- Similarly, although less than one percent of the total United States population was confined in prisons and jails as of 2012, over 4 percent of all tuberculosis cases nationwide occurred among residents of correctional facilities.[iii]
- In the most recent federal report on mental health and corrections, researchers estimated that more than half of all prison and jail inmates had a mental health problem.[iv]

- In 2004, at the time of the most recent survey of state and federal prisoners, 56 percent of state inmates and 50 percent of federal inmates reported drug use in the month prior to incarceration.[v]

Lack of treatment can be a factor in increased recidivism. For example, a 2006 report found that among state prisoners who were dependent on drugs or alcohol, 53 percent had at least three prior sentences to probation or incarceration, compared to 32 percent of other inmates.[vi] Proper treatment—especially for behavioral health issues—can significantly reduce further criminal involvement and related costs.[vii] Yet most justice-involved individuals have been unable to access treatment.

The Survey of Inmates in State and Federal Correctional Facilities (2004) and the Survey of Inmates in Local Jails (2002) by the U.S. Department of Justice provide the most recent data available on inmate access to health care. Though rates differ depending upon the type of correctional facility, the studies indicate that fewer than half of inmates who have a mental health problem have ever received treatment for their problem. A third or fewer received mental health treatment after admission.[viii]

Failing to connect justice-involved individuals to health care has been expensive for states, because health care costs for the criminal justice system have skyrocketed. A recent Pew report stated that between 2008 and 2011, prison health care spending increased in 42 of the 44 states included in the study, with median growth of 49 percent. In 11 states, prison health care expenditures grew 90 percent or more.[ix]

Under the ACA, criminal justice systems are now able to enroll significant numbers of justice-involved individuals in health care coverage, thereby reducing recidivism and cutting costs.

Why Mapping?

Criminal justice systems have historically been the primary funder for a large percentage of the newly-eligible Medicaid expansion population. It is expected that four to six million (roughly one-third) of the newly insured Medicaid population in 2016 will include people who will have been booked into jails during the year.[x] By 2022, that number is estimated to increase to approximately 7 million.

As states begin to implement the ACA and the criminal justice-involved population begins to receive care through Medicaid and marketplace insurance coverage, criminal justice agencies must be part of the planning and implementation conversations. Having a place at the table will help ensure that:

- The criminal justice-involved population receives the attention necessary to meet its specific health care and behavioral health care needs.

- Costs are appropriately shifted from the criminal justice system to Medicaid, reallocating existing criminal justice treatment funding streams for supportive and wraparound care.
- All potential opportunities for enrollment, referral, and treatment are integrated into the criminal justice, general health care, and behavioral health care systems.

One method of addressing these three focus areas is to use a systems mapping process. Systems mapping creates opportunities for dialogue and relationship building between health and justice stakeholders. By working together to build a visual portrait of how individuals progress through the criminal justice system, health and justice stakeholders gain better understanding of their respective policies and practices. In addition, mapping allows jurisdictions to consider decision points throughout the entire criminal justice system when exploring opportunities to enroll criminal justice-involved individuals in insurance coverage.

This guide is for states and local jurisdictions interested in using system mapping to maximize opportunities for criminal justice and health care system integration and efficiency through the ACA.

The Criminal Justice/ACA Mapping Process

The following steps provide guidance for convening a group of stakeholders for a multi-day mapping session. During that session, participants work together to map the decision points across the entire criminal justice system, from arrest to jail, prison, parole, and beyond where they might integrate health care enrollment or assessment in existing criminal justice processes. In addition, they will identify existing activities and opportunities for enhanced or new activities associated with health coverage enrollment, service referral, and other integration. The mapping process is a launching point for enhancing system efficiency and effectiveness related to the ACA.

1. Convene an Organizing Committee

With the active support of leaders in criminal justice and health services, bring together a small group of committed individuals with decision making authority to help coordinate the mapping process, including identifying stakeholders, conducting outreach, developing the mapping session agenda, and facilitating the process.

2. Identify Stakeholders to Involve in Planning

Mapping your criminal justice system will need to be a collaborative process. No one agency or stakeholder will have a complete, detailed picture of the system or sufficient information to identify gaps, opportunities, or an assessment of proposed solutions. Strive to include participants who have decision making authority within their agencies.

Stakeholders to consider may be members of the following fields:

- Law enforcement
- Prisons and jails
- Probation and parole
- Pretrial
- Human or social services, or equivalent
- Mental health and addiction services
- State's attorney's office staff
- Public defender
- Judiciary/courts
- Community-based substance abuse and mental health treatment providers
- Correctional health services
- Community-based advocacy/service providers

Other parties to consider:

- Medicaid and the administrative service staff
- Governor's office staff
- Elected officials, e.g., state, local, county or city officials
- State or local policy and budget officials
- External evaluator to assist with implementation

3. Interview Stakeholders

You will be more successful with your mapping project if you clearly understand beforehand the opportunities and challenges that your stakeholders anticipate as they attempt to maximize insurance coverage for justice-involved populations under the ACA. It's not necessary to interview your entire group of stakeholders, but interviewing a representative cross-section of staff from state agencies and community providers is recommended. Use the interview to introduce the mapping work session.

Your interview protocol should include a description of the work session and expected outputs. Explain to interviewees that you will use their input to refine the agenda to better meet the needs and expectations of participants.

Here are some questions you might ask:

- What questions do you have about how implementation of the ACA might affect people involved in the criminal justice system?
- What major <u>opportunities</u> related to the ACA do you see for:
    - Individuals involved in the criminal justice system?
    - The criminal justice system?
    - Your agency?
- What major <u>challenges</u> related to the ACA do you see for:
    - Individuals involved in the criminal justice system?
    - The criminal justice system?

    - Your agency?
- What eligibility determination and enrollment activities are already occurring, if any?
- What challenges do you anticipate with determining eligibility or facilitating the enrollment of individuals in the criminal justice system?
- Will your health services system have the capacity to handle justice-involved individuals once they are covered by insurance? Will they be able to access general and behavioral health care easily?
- Have you participated in or do you know of any collaborative efforts to plan for the implementation of ACA in your jurisdiction or agency?
    - If yes, please describe the effort, who is involved, and how it's going.
    - If no, do you know of any plans to convene such discussions?
- What outcomes do you hope to achieve from the work session we are planning?
- What potential barriers to achieving those outcomes do you anticipate?
- What concerns do you have about the work session?
- What else would you like to share that might help to inform this work?

4. Map Your Criminal Justice System Decision Points

Gather your stakeholders for a work session. Where useful and appropriate, ask a judge or other high-ranking official to be the convener.

Purpose of mapping. Working collaboratively with stakeholders will help ensure that you build a complete picture of your criminal justice system and arrive at a realistic, informed assessment of which decision points offer the best opportunities to determine the eligibility of defendants and offenders for enrollment under the ACA.

Length of work session. Plan to schedule two days to complete the initial mapping work. The intersection of health care services and the criminal justice system will likely be new to most participants, and it will take time to explore the way the system currently works, discuss opportunities for better collaboration, and brainstorm solutions to issues.

Structure. In general, work session tasks will follow the process outlined in figure 1.

Support Cross-Agency and Cross-System Collaboration. Your jurisdiction will be successful at enrolling justice-involved individuals under the ACA only to the degree that you foster a collaborative approach to the work. Your pre-meeting interviews with stakeholders may uncover opportunities for and challenges to collaboration. Where possible, consider these as you build the meeting agenda and look for ways to foster dialogue and cooperative, solution-focused thinking.

Mapping and Identifying the Intercept Points. To assist meeting participants in mapping the decision points in their criminal justice system, provide them with the NIC Healthcare

Enrollment Intercepts in the Criminal Justice System: Sample Decision Points Map (see figure 3).

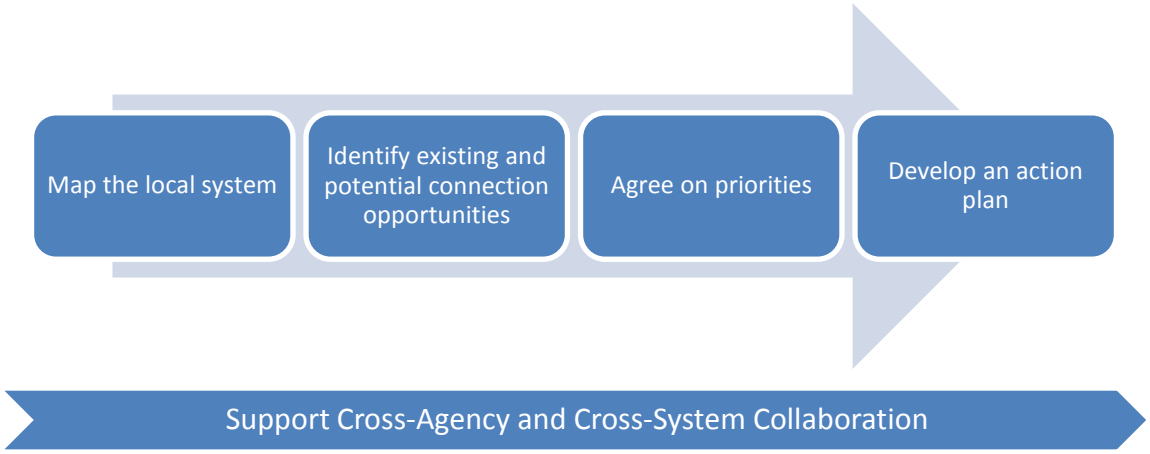


Figure 1: Session Task Mapping

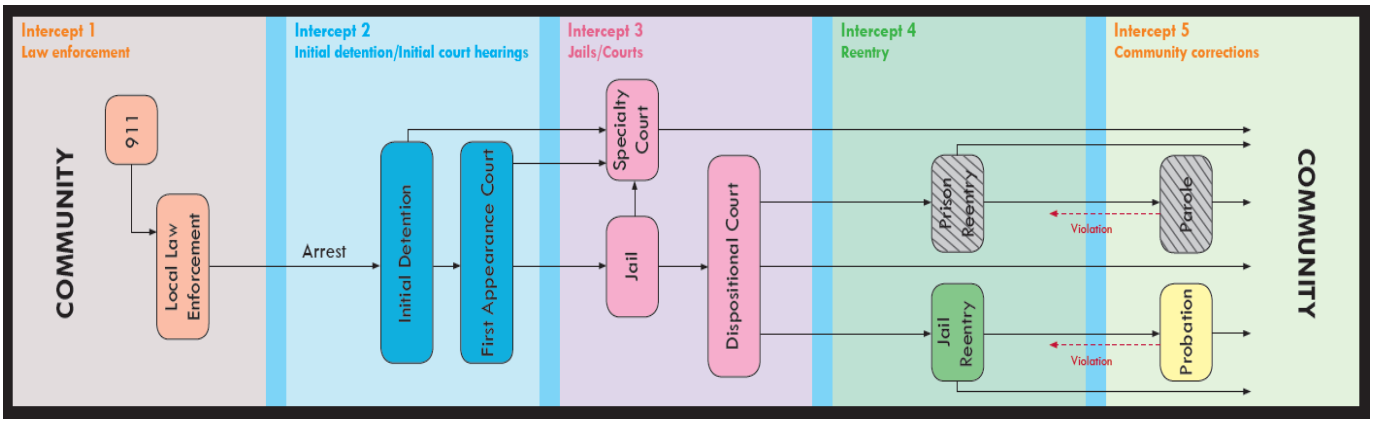


Figure 2: Sequential Intercept Model of the Criminal Justice System[xi]

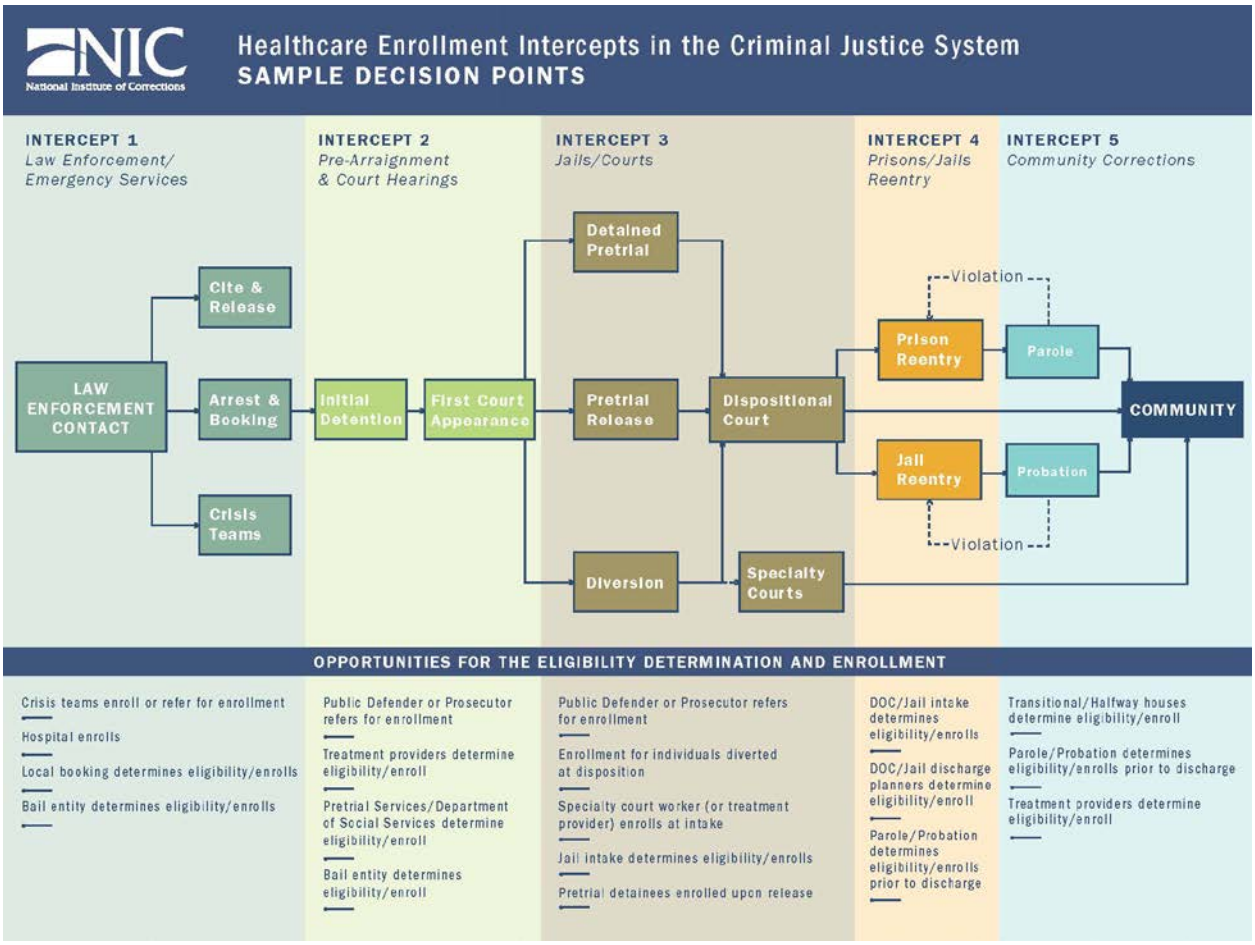


Figure 3: Healthcare Enrollment Intercepts in the Criminal Justice System: Sample Decision Points

The Sequential Intercept Model of the Criminal Justice System (see figure 2) was developed by Mark R. Munetz, MD, and Patricia A. Griffin, PhD, for the GAINS Center for Behavioral Health & Justice Transformation, funded by the Center for Mental Health Services within the Substance Abuse and Mental Health Services Administration (SAMHSA). The model was used originally to map connections between the criminal justice and mental health systems. NIC modified the model to illustrate ACA enrollment opportunities (see figure 3).

As shown in figure 3, the NIC Sample Decision Points Map divides the justice system into five "intercepts" or decision points where individuals will have contact with health and justice personnel who can connect them with coverage:

- Intercept 1: Law Enforcement/ Emergency Services
- Intercept 2: Pre-Arraignment & Court Hearings
- Intercept 3: Jails/Courts
- Intercept 4: Prisons/Jails/Reentry
- Intercept 5: Community Corrections

These intercepts should be adequate for describing most criminal justice systems, but you will also want to map additional decision points that individuals pass through. While they won't all be equally desirable for determining an individual's eligibility for coverage or enrollment, each one should be considered.

NOTE: As part of the mapping process, it will be helpful to discuss the following questions with the work group:

- How do individuals arrive at each decision point in the criminal justice system?
- What criteria determine where individuals go next in the criminal justice system?
- Which agency has primary responsibility for individuals at each decision point?
- What outside functions or services are accessed or required at each decision point?
- What are the inherent strengths and challenges at each decision point, e.g., resource limitations or operational challenges?

5. Identify Opportunities

After the work group has identified decision points, they should answer the following questions for each one:

- What activities are already occurring at that decision point to determine the eligibility of individuals for coverage or to enroll them in coverage? (Your answers may reveal that additional agencies are associated with specific decision points.)
- What opportunities are there to enhance eligibility or enrollment activities?

You may find it helpful to chart the opportunities you identify by target population, activity, and comments, as shown in figures 3 and 4. You would then proceed to create similar charts for each intercept point. See appendix A for a sample map, complete with the types of existing activities likely to be in place and suggestions for ways to enhance activities at each intercept. See appendix B for an actual map completed for the Connecticut criminal justice system.

Stage	Target Population	Insurance Coverage Activity
Pre-Arrest	Seriously Mentally Ill (SMI)	Crisis intervention teams (CIT), mobile crisis units, and hospitals make referrals to the mental health department; the department enrolls cooperative individuals in Medicaid
Arrest	All	None

Booking	All	None
Hospital Triage	Hospitalized Patients	Enrollment in Medicaid (if cooperative)
Bail Decision	Eligible Detainees	None

Figure 4: Intercept 1: Contact with Law Enforcement, Existing Activities (EXAMPLE)

Stage	Target Population	Insurance Coverage Activity	Comments
Pre-Arrest	SMI	CIT & mobile crisis units enrolling	May not be feasible given the crisis aspect of situation. CIT unit funding was recently reduced, reducing staff.
Arrest	All	None identified	
Booking	All	Eligibility determination & enrollment	Need access to secure database; jail has leverage for cooperation, (jail vs. treatment or detox)
Hospital Triage	Hospitalized Patients	None identified	
Bail Decision	Eligible Pretrial Detainees	Assess for substance abuse, mental health, medical needs, and current coverage status	Leverage for cooperation (bail/no bail)

Figure 5: Contact with Law Enforcement, Opportunities for Enhancement (EXAMPLE)

6. Agree on Priorities

Once the decision points have been mapped and opportunities to connect individuals in the justice system with coverage under the ACA have been identified, the work group should:

- Review the opportunities to enhance eligibility or enrollment activities and prioritize them. For each opportunity, assess:
  - Existing resources (work groups, funding streams, and stakeholder interest in making a change)
  - Which key stakeholders should be involved and which should take the lead on change efforts
- Review the list of opportunities and agree on which to prioritize.
- Use the intercept model and the work completed by stakeholders to draft an illustration describing relevant stakeholders, how the system works, and opportunities to improve the insurance enrollment of individuals passing through the system. This will be useful in explaining the work and ensuring

the smooth implementation of any new eligibility or enrollment efforts. (See appendix A for a model map.)

7. Create an Action Plan

With the work group, develop a plan to implement the opportunities and enhancements that participants have prioritized. (See appendix C for an action plan template.) Such a plan would include these and additional steps:

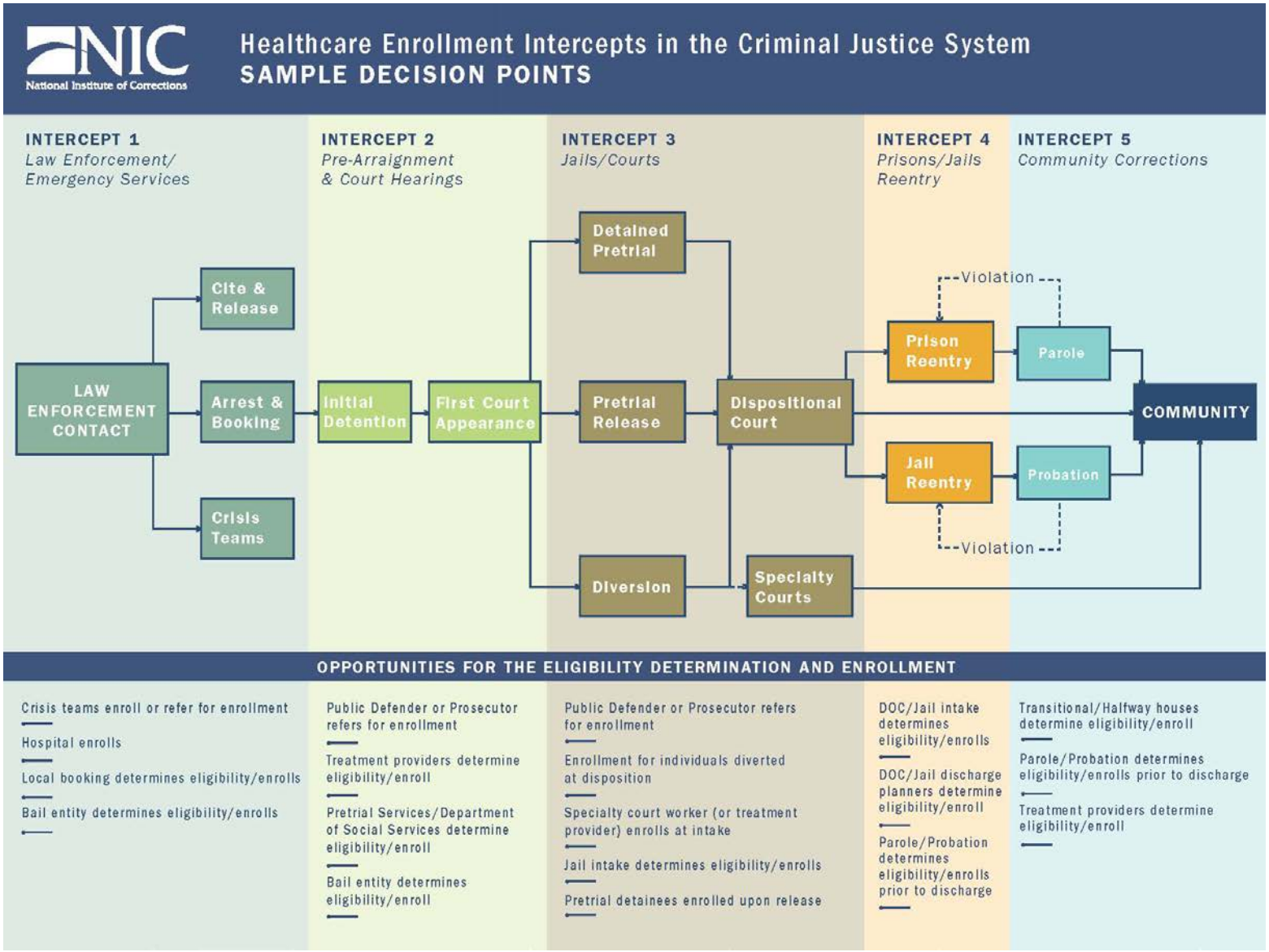
- Assign a coordinator or program manager to the project.
- Identify champions.
- Identify an implementation committee/ working group(s) to refine and execute the implementation plan.
- Set an initial project timeline.
- Line up other staffing and funding (as appropriate).
- Plan for any adjustments to policy or regulations necessary for implementation.
- Determine initial outcome objectives.
- Outline how feedback will be used to improve the implementation process and how progress toward implementation will be evaluated regularly.

Completion and implementation of the action plan should be assigned to the implementation committee.

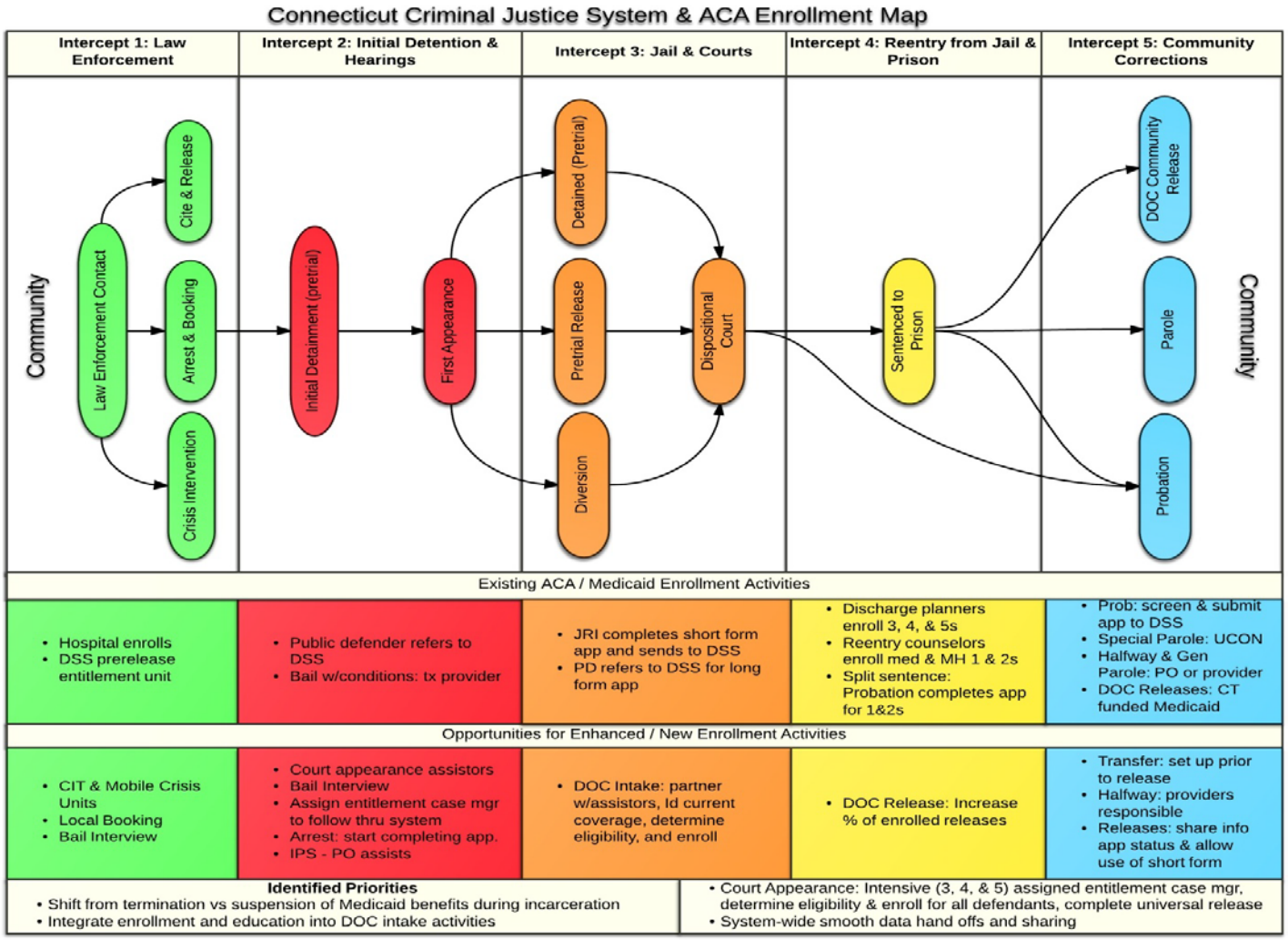
Moving Forward

General health and behavioral health issues with criminal justice-involved individuals intersect. Hence, it is critical that the needs of the population are considered as jurisdictions develop policies and processes to implement the ACA at state and local levels. Bringing together stakeholders from criminal justice, health care, and behavioral health care systems for dialogue around these issues builds increased understanding and collaboration across systems. Using the ACA to do a better job of delivering health care and behavioral health care services to this population not only improves the health of our communities, but makes them safer.

Appendix A: Sample Intercept Map for ACA Eligibility/Enrollment Priorities



Appendix B: Completed Intercept Map for ACA Eligibility/Enrollment Priorities in Connecticut



Note: This map was developed and is used with permission through NIC technical assistance #14C1011.

Appendix C: Action Plan Template

Opportunity #1 (Example): To Enroll or increase access to coverage: [e.g., at jail booking, prison intake, reentry]

Overview: Describe the opportunity, including brief mention of strengths, possible barriers, and estimated time frames.

Goals: *If you take action on this opportunity, what do you hope to accomplish?*	**Lead / Key Stakeholders:** *Who is primarily responsible for pursuing the goal?*	**Tasks:** *What are the tasks that must be completed to accomplish the goal?*	**Timeline:** *When will each task be completed?*	**Outcome/Output Measure:** *How will you know when you've accomplished the goal?*
Goal 1: (example) Establish an enrollment process at jail booking.	Lead's name and organization	Task 1: Convene a workgroup. Task 2: Determine who will complete the enrollment application. Task 3: . . . . Task 4:	1. 3/1/14 2. 3/15/14 3. XX/XX/XXXX 4. XX/XX/XXXX	1. Workgroup meets 2. Memorandum of understanding in place with service provider 3. X output 4. X output
Goal #2:				

Opportunity #2 (Example): To increase continuity of care from jail to the community [e.g., increase information sharing between jail and community-based service providers]

Overview: Describe the opportunity, including brief mention of strengths, possible barriers, and estimated time frames.

Goals: *If you take action on this opportunity, what do you hope to accomplish?*	**Lead / Key Stakeholders:** *Who is primarily responsible for pursuing the goal?*	**Tasks:** *What are the tasks that must be completed to accomplish the goal?*	**Timeline:** *When will each task be completed?*	**Outcome/Output Measure:** *How will you know when you've accomplished the goal?*
Goal 1: (example) Establish electronic health records that are shared by the jail and community providers.	Lead's name and organization	Task 1: Convene a workgroup. Task 2: Secure funding. Task 3: . . . . Task 4:	1. 3/15/14 2. 4/1/14 3. XX/XX/XXXX 4. XX/XX/XXXX	1. Workgroup meets 2. Funding awarded 3. X output 4. X output
Goal #2:				

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Endnotes

[i] Compare Laura M. Maruschak, "HIV In Prisons, 2001–2010" (Bureau of Justice Statistics, http://www.bjs.gov/index.cfm?ty=pbdetail&iid=4452), which cites a rate of 146 HIV cases per 10,000 prisoners, with National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention, "Monitoring Selected National HIV Prevention and Care Objectives by Using HIV Surveillance Data—United States and 6 Dependent Areas—2011" (Centers for Disease Control and Prevention , http://www.cdc.gov/hiv/pdf/2011_monitoring_hiv_indicators_hssr_final.pdf), which cites a prevalence of those living with HIV (diagnosed and undiagnosed) in the United States at 446.4 per 100,000 persons age 13 and older.

[ii] Centers for Disease Control and Prevention, *Correctional Facilities and Viral Hepatitis*, http://www.cdc.gov/hepatitis/Settings/corrections.htm.

[iii] Centers for Disease Control and Prevention, *Reported Tuberculosis in the United States, 2012*, p. 80, http://www.cdc.gov/tb/statistics/reports/2012/pdf/report2012.pdf. For rates of incarceration of U.S. adults, see Lauren E. Glaze and Erinn J. Herberman, Ph.D., *Correctional Populations In The United States, 2012*, http://www.bjs.gov/content/pub/pdf/cpus12.pdf, which states that 1 out of 108 adults (0.93%) in the United States was incarcerated in prison or jail in 2012.

[iv] Doris J. James and Lauren E. Glaze, *Mental Health Problems of Prison and Jail Inmates*, http://www.bjs.gov/content/pub/pdf/mhppji.pdf.

[v] Christopher J. Mumola and Jennifer C. Karberg, *Drug Use and Dependence, State and Federal Prisoners, 2004* http://www.bjs.gov/content/pub/pdf/dudsfp04.pdf.

[vi] Ibid.

[vii] Sixty-five percent of all adults in the U.S. correctional system meet medical criteria for drug and/or alcohol use disorders, and treatment participation reduces subsequent criminal activity by 33–70 percent, depending on the model. See Mancuso, D. & Felver, B. http://publications.rda.dshs.wa.gov/1372/

[viii] National Institute of Mental Health, *Inmate Mental Health*, http://www.nimh.nih.gov/statistics/1DOJ.shtml

[ix] The Pew Charitable Trusts and the MacArthur Foundation, *Managing Prison Health Care Spending*, http://bit.ly/1fo6mmO.

[x] Marsha Regenstein and Jade Christie-Maples, *Medicaid Coverage for Individuals in Jail Pending Disposition: Opportunities for Improved Health and Health Care at Lower Costs*, http://bit.ly/Mq3wki.

[xi] You can download the model and learn more about it from the GAINS Center for Behavioral Health and Justice Transformation at http://gainscenter.samhsa.gov/pdfs/integrating/GAINS_Sequential_Intercept.pdf.