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FACT SHEET:

Drug Testing and Wellness Considerations in Juvenile Treatment Courts

All Rise Treatment Court Institute

Center for Justice Innovation

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The goal of the juvenile treatment court (JTC) model is to improve the lives of youth by reducing risk, improving mental and physical health, enriching relationships at home, and building success in education and work. As research into substance use treatment and behavioral health sciences advances, the field should continually reevaluate the practices used. The success of a treatment court rests in the ability to use best-practice recommendations to ensure that its programs are person-centered and do no harm. While a significant amount of research exists on "what works" to achieve strong outcomes within treatment courts, some practices are still in need of further exploration and description. One such area is drug testing of adolescents in JTCs.

This brief will highlight some of the key differences in research findings related to drug testing in youth versus adult treatment court; the importance of using adolescent-appropriate and person-centered practice with an emphasis on the therapeutic alliance; and the need to view drug testing as one tool for determining a youth's progress in a JTC. JTC teams are encouraged to implement the following criteria, discussed in depth below, when developing or refining the drug testing policy for their JTC program:

- Ensure a safe testing environment.
- Use the least invasive testing methods available.
- Develop trauma-informed testing procedures.
- Be fair and consistent when responding to a return to use.
- Always explain and connect observed behaviors to the necessity of drug testing.

Definition of a Safe Environment

Throughout the organization, staff and the people they serve, whether children or adults, feel physically and psychologically safe; the physical setting is safe and interpersonal interactions promote a sense of safety. Understanding safety as defined by those served is a high priority.

(Source: SAMHSA's *Concept of Trauma and Guidance for a Trauma-Informed Approach*, https://store.samhsa.gov/sites/default/files/sma14-4884.pdf)

Juvenile vs. Adult Treatment Court Testing Practices

While there has been significant discussion and research within the adult drug treatment court (ADTC) model on the relationship between duration of sobriety and the likelihood of a return to use, the same cannot be said for, nor should it be applied to, the JTC model. In the ADTC model, multiple research studies have found that programs requiring participants to have more than 90 consecutive days of negative drug tests before graduation experience 164% greater reductions in recidivism compared with programs that required a shorter span of negative tests.[1] *Such findings do not exist with adolescents*. This leaves teams with the responsibility to build policies and procedures that do not focus on drug testing results as determinative of graduation or program success. Instead, policies and procedures should call for practices and requirements that are developmentally appropriate for youth but also consider public safety protections and concerns. Specifically, policies should be reflective of adolescent development research, look at multiple indicators of sobriety and recovery, and not apply adult procedures to a youth population. The next three sections review current available research and provide suggested practice changes for teams.

Adolescent-Appropriate Treatment and Testing in Juvenile Treatment Court Programs

In December 2016, the Office of Juvenile Justice and Delinquency Prevention published the *Juvenile Drug Treatment Court Guidelines*[2] (*JDTC Guidelines*) to provide practitioners with research-based best practice recommendations for the model. According to the *JDTC Guidelines*, "Drug testing should be random, observed, frequent, and sensitive to any potential trauma the youth has experienced."[3] To date, there is no research that has specifically evaluated random, observed, frequent drug testing in JTCs as it relates to youth outcomes. In fact, the heavy reliance on this practice stems from historical

1 Carey, S. M., Mackin, J. R., & Finigan, M. W. (2012). What works? The ten key components of drug court: Research-based best practices. *Drug Court Review* 8(1), 6–42. https://npcresearch.com/wp-content/uploads/Best_practices_in_drug_courts_20122.pdf

2 Office of Juvenile Justice and Delinquency Prevention. (2016). *Juvenile drug treatment court guidelines* (NCJ 250368). U.S. Department of Justice, Office of Justice Programs. https://ojjdp.ojp.gov/programs/juvenile-drug-treatment-court-guidelines

3 Office of Juvenile Justice and Delinquency Prevention, *JDTC guidelines*, p. 32.

practices of the ADTC model. Notably, the JDTC Guidelines do not include a recommendation for the number of negative drug screens that juveniles need to obtain to graduate from the program. This is an appropriate omission, as there is no published research to support a connection between a specific number of negative drug tests and success following treatment graduation, or even long-term cessation of substance use. Although research is lacking regarding drug testing as it relates to a client's progression through the JTC program, there are recommendations for adolescents who are receiving substance use treatment. According to the National Institute on Drug Abuse, providers should identify a return to drug use early, before an undetected relapse progresses to more serious consequences. A return to use is a sign of the need for further treatment or the necessity of adjusting the individual's current treatment plan to better meet their needs.[4] For this reason, JTCs should create a policy to monitor return to use.

The following are some other factors to consider.

Trauma

The *JDTC Guidelines* state firmly that drug testing should be "sensitive to any potential trauma the youth has experienced."[5] This statement is grounded in research on adverse childhood experiences among youth involved in the juvenile justice system.

While the research on drug testing among youth is significantly limited, the research on the importance of trauma-informed care for this population is more robust. Youth involved in the juvenile justice system are eight times more likely to have posttraumatic stress disorder than youth in the general population.[6] Moreover, more than 80% of youth involved in the juvenile justice system report having been exposed to at least one traumatic event in their lifetime, with many of them reporting exposure to multiple traumatic events.[7]

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4 National Institute on Drug Abuse. (2014). *Principles of adolescent substance use disorder treatment: A research-based guide.* https://archives.nida.nih.gov/sites/default/files/podat-guide-adolescents-508.pdf

5 Office of Juvenile Justice and Delinquency Prevention, *JDTC guidelines*, p. 32.

6 Abram, K. M., Teplin, L. A., Charles, D. R., Longworth, S. L., McClelland, G. M., & Dulcan, M. K. (2004). Posttraumatic stress disorder and trauma in youth in juvenile detention. *Archives of General Psychiatry, 61*(4), 403–410. https://doi.org/10.1001/archpsyc.61.4.403

7 The National Child Traumatic Stress Network. (n.d.) *Essential elements.* https://www.nctsn.org/trauma-informed-care/trauma-informed-systems/justice/essential-elements

The types of trauma that youth are exposed to differ across genders. For example, one study of 658 youth involved in the juvenile justice system found that girls were twice as likely as boys to have experienced sexual abuse (31.8% to 15.5%), and girls were four times more likely than boys to have experienced sexual assault (38.7% to 8.8%).[8] Because of the high propensity for trauma among this population, it is critical for all staff who work with juveniles, including those responsible for drug testing, to be trained in trauma-informed care.

Research also stresses that it is important to consider a juvenile's sexual orientation and gender identity when conducting drug tests.[9] Lesbian, gay, bisexual, transgender, queer or questioning, intersex, asexual, and more (LGBTQ+) youth are 190% more likely than their heterosexual counterparts to use substances,[10] and the prevalence of substance use among transgender youth is 2.5 to 4 times higher than among their cisgender counterparts.[11] Individuals who are responsible for conducting or observing the test should be culturally competent in LGBTQ+ issues, and the agency responsible for the testing should ensure that the environment is safe and inclusive. Juveniles should be asked what pronouns they use, and youth who identify as trans or nonconforming should be allowed to choose the gender of the clinician who observes or gives them their drug test.

A legal precedent was established by the U.S. Court of Appeals in 2022 in a decision that notes that the Americans with Disabilities Act of

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8 Dierkhising, C. B, Ko, S. J, Woods-Jaeger, B., Briggs, E. C., Lee, R., & Pynoos, R, S. (2013). Trauma histories among justice-involved youth: Findings from the National Child Traumatic Stress Network. *European Journal of Psychotraumatology*, *4*(1), Article 20274. https://doi.org/10.3402/ejpt.v4i0.20274

9 Smith, B. V., Gorenberg, H., Perry, J. R., Belmarsh, L., Johnson, S., Jett, S., Walters, R., Saez, M., Shoenberg, D., Schuster, T., Delaney, J., Bachar, K., Selph, M., Seymour, M., Gruberg, S., Daley, C., & Yarhouse, M. (2018). *Emerging best practices for the management and treatment of lesbian, gay, bisexual, transgender, questioning, and intersex youth in juvenile justice settings.* American University Washington College of Law. https://digitalcommons.wcl.american.edu/fasch_rpt/36

10 Marshal, M. P., Friedman, M. S., Stall, R., King, K. M., Miles, J., Gold, M. A., Bukstein, O. G., & Morse, J. Q. (2008). Sexual orientation and adolescent substance use: A meta-analysis and methodological review. *Addiction, 103*(4), 546–556. https://doi.org/10.1111/j.1360-0443.2008.02149.x

11 Day, J. K., Fish, J. N., Perez-Brumer, A., Hatzenbuehler, M. L., & Russell, S. T. (2017). Transgender youth substance use disparities: Results from a population-based sample. *Journal of Adolescent Health, 61*(6), 729–735. https://doi.org/10.1016/j.jadohealth.2017.06.024

1990 protects people with gender dysphoria against discrimination.[12] The act defines gender dysphoria as the "clinically significant distress felt by some of those who experience an incongruence between their gender identity and their assigned sex" (p. 11). Many but not all transgender persons suffer from gender dysphoria. For that reason, courts should consider reasonable accommodation requests, including their desired pronouns and choice of bathroom.

Trauma can also be the result of institutional racism, implicit bias, and microaggressions for African Americans, Latinx, Asians, and Native American Indians. For some members of these groups, racial discrimination or inequitable treatment can be debilitating. For this reason, practitioners should be mindful of these populations and provide a safe environment for youth when conducting drug screens. This can be accomplished by clearly explaining the process and outcomes if a test is positive for substances. Court teams should also be fair and consistent when responding to a return to use.

Adolescent Development and Treatment

Adolescence is a time of significant brain development in the prefrontal cortex, a region responsible for impulse control, emotional regulation, and decision making.[13] Neuroimaging studies have shown that juveniles are more likely to be influenced by emotion than adults and that adolescents often struggle to interpret others' emotions. Studies that compared a teen brain to an adult brain found that adolescents' prefrontal cortices are used less often during interactions with other people and during decision making.[14] Since this region of the brain is not fully formed until an individual reaches their mid-20s, it can be difficult for adolescents to make what adults consider logical and appropriate decisions.

12 *Williams v. Kincaid*, 45 F.4th 759 (4th Cir. 2022). https://www.ca4.uscourts.gov/opinions/212030.P.pdf

13 Casey, B. J., & Caudle, K. (2013). The teenage brain: Self control. *Current Directions in Psychological Science, 22*(2), 82–87. https://doi.org/10.1177/0963721413480170

14 Arain, M., Haque, M., Johal, L., Mathur, P., Nel, W., Rais, A., Sandhu, R., & Sharma, S. (2013). Maturation of the adolescent brain. *Neuropsychiatric Disease and Treatment*, *9*, 449–461. https://doi.org/10.2147/NDT.S39776

Explain the connection between the mandated tests and the behaviors that led to the need for drug testing.

Another consideration practitioners should make regarding adolescent development is that youth will begin to form their own personal identity and separate from their parents or guardians.[15] This increased autonomy and self-regulation leads to a sense of agency or being in control of one's own actions.[16] Mandated drug screens will challenge an adolescent's sense of agency. It is important to explain the connection between the mandated tests and the behaviors that led to the need for drug testing. This explanation should be provided in an informative manner that is not judgmental or demeaning. The design of the JTC program should also provide an avenue that leads to the removal of the requirement for drug testing and to the successful completion of the program. By linking cause and effect, youth can regain some control of the process and work toward a successful outcome.

Adolescent-Appropriate, Person-Centered Practices

Person-centered practices are crucial in the context of JTCs because they allow treatment professionals to create tailored treatment plans that meet the individual needs, values, and preferences of each juvenile. This approach acknowledges that every youth is unique and has their own strengths, challenges, and experiences that will influence their response to treatment. By working with juveniles in an adolescent-appropriate, person-centered manner, JTC practitioners establish trust and build stronger relationships, allowing the youth to feel valued, respected, and heard. This can lead to increased therapeutic engagement, better communication, and improved outcomes.

15 National Research Council. (2013). *Reforming juvenile justice: A developmental approach.* National Academies Press. https://doi.org/10.17226/14685

16 Nucci, L., Hasebe, Y., & Lins-Dyer, M. T. (2005). Adolescent psychological well-being and parental control of the personal. *New Directions for Child and Adolescent Development, 108*, 17–30. https://doi.org/10.1002/cd.125

Ultimately, person-centered practices prioritize the youth's well-being and empower them to take an active role in their own recovery.

The following are examples of person-centered practices that JTC teams should incorporate into their policies and procedures to enhance outcomes for youth.

Therapeutic Alliance

A strong therapeutic alliance or professional bond between the client and the therapist has been linked to positive therapeutic outcomes for both adults and youth.[17] However, clinicians working with youth involved in the juvenile justice system often need to exercise patience, as many juveniles mandated to treatment arrive with a strong mistrust of authority. Nonetheless, recent research has shown that youth who begin treatment with a weak therapeutic alliance can experience posttreatment outcomes comparable to those who begin treatment with a strong therapeutic alliance.[18]

Because of the potential for mandated drug tests to undermine the therapeutic alliance, the therapists working with juveniles should not be the same professionals responsible for conducting drug tests.

Appropriate Language

The way JTC team members speak to and about court participants can impact their mental health, their trust in the court, and ultimately their success in the program. Language has the power to exacerbate or lessen stigma, alter participant perceptions of court and treatment, and impact the quality of treatment provided. Youth entering JTCs bring with them a myriad of intersectional identities and experiences. Many of those identities are stigmatized. Historically, language used to describe conditions related to substance use or

17 Ardito, R. B., & Rabellino, D. (2011). Therapeutic alliance and outcome of psychotherapy: Historical excursus, measurements, and prospects for research. *Frontiers in Psychology, 2*(2011), 270. https://doi.org/10.3389/fpsyg.2011.00270

18 Papalia, N., Dunne, A., Maharaj, N., Fortunato, E., Luebbers, S., & Ogloff, J. R. P. (2022). Determinants and outcomes of the therapeutic alliance in treating justice-involved youth: A systematic review of quantitative and qualitative research. *Clinical Child and Family Psychological Review, 25*(4), 658–680. https://doi.org/10.1007/s10567-022-00407-2. Erratum in Correction: Determinants and outcomes of the therapeutic alliance in treating justice-involved youth: A systematic review of quantitative and qualitative research. *Clinical Child and Family Psychological Review, 26*(1), 302. https://doi.org/10.1007/s10567-022-00410-7

mental health has focused on individual responsibility and moral failings, ignoring the larger societal structures that created the circumstances for those conditions to exist.[19] This individualistic narrative can further disincentivize youth from engaging in treatment. Stigmatized groups' expectations of further discrimination can prevent them from connecting with services. And even when connected with services, stigmatized participants are more likely to drop out.[20] It is imperative that JTC practitioners take the time and consideration to ensure that they are not perpetuating these stigmas through their verbal and nonverbal language.

Recovery language has evolved over time. JTC teams should stay informed on appropriate language. With respect to drug testing, descriptors such as "clean" and "dirty" are stigmatizing. They should be replaced by "negative," and "positive." Similarly, "addict" is stigmatizing and should be replaced by "person with a substance use disorder."

Drug Testing as One Tool

When the drug court model was first introduced, drug testing was the primary focus and measurement of success. As the treatment court model has evolved, we now know that drug testing is only one piece of the puzzle of a client's success. For that reason, it is crucial to bring person-centered practices and considerations to drug testing procedures. For example, rather than increasing drug testing requirements as a punishment or form of control in response to return to use or continuing use, the treatment team can work with the client and their family to develop a drug testing plan that is tailored to their individual needs. This may involve establishing testing schedules that fit within the client's school or work schedule, identifying testing locations that are convenient for the client and their family, and providing support and education around the importance of drug testing in supporting long-term recovery. By using person-centered practices in drug testing, the treatment team can promote greater engagement and buy-in from the youth and increase the likelihood of successful treatment outcomes.

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19 Collins, A. B., Bluthenthal, R. N., Boyd, J., & McNeil, R. (2018). Harnessing the language of overdose prevention to advance evidence-based responses to the opioid crisis. *International Journal of Drug Policy*, 55, 77–79. https://doi.org/10.1016/j.drugpo.2018.02.013

20 Substance Abuse and Mental Health Services Administration. (2017). *Words matter: How language choice can reduce stigma.* https://facesandvoicesofrecovery.org/wp-content/uploads/2019/06/Words-Matter-How-Language-Choice-Can-Reduce-Stigma.pdf

Drug testing should not be used as an alternative to a therapeutic relationship.

Drug testing should not be used as an alternative to a therapeutic relationship (i.e., testing but not asking participants about current substance use, with the view that the test results are all that matter). Drug testing technology using matrices such as oral fluid (saliva), sweat, hair, and DNA-verified urine is becoming increasingly sophisticated. Although urine is still by far the most common matrix, an evidence base is being built for alternatives. When considering the different types of drug testing available, particularly with the juvenile population, the least invasive form of testing should be used whenever possible. Monitoring adolescents using drug testing can facilitate therapeutic conversations about recurrent substance use, and drug testing can give the youth extrinsic motivation to follow their treatment plan and help the provider make adjustments as needed. Considering the individual differences in adolescents' histories, JTCs need to ensure that if an observed urinalysis drug screen (UDS) is needed, it is performed by a neutral staff member, not a clinician or other JTC staff member who is assigned to the case and has a therapeutic alliance with the client. For JTC participants with known histories of trauma, using observed UDS could be triggering and potentially retraumatizing. Consider using oral swabs, unobserved testing, or DNA-verified urine screens on a case-by-case basis.

Looking Ahead

As the substance use disorder treatment field evolves, it continues to recognize the influence of biological, familial, cultural, and other psychosocial factors on substance use and how best to respond and engage while encouraging a path to recovery. Specifically, drug testing programs should have detailed testing policies and procedures that are based on adolescent-appropriate, person-centered principles, use a trauma-informed lens, and are nonjudgmental and nonpunitive. The application of adult drug testing requirements to adolescents is not supported by research. More specifically, the requirement of 90 consecutive days of sobriety as a requirement for graduation should not be applied to JTC programs. Instead, drug testing results should be used as one source of information to complement self-reports and the collateral reports of all the other activities in which the adolescent engages. Courts may also choose to monitor cumulative negative drug tests instead of consecutive negative results to determine progress. Procedures should be developed to orient JTC participants to drug testing and program expectations. This should include why, where, and when drug testing is done and the role and rights the participant has in this process. Participants should be educated on the therapeutic uses of testing to prevent them from viewing it only in a negative way. Implementing the key principles of person-centered practices in every phase of the JTC will lead to improved outcomes for the adolescents, including greater access to support services and more empowered long-term plans for recovery.

For further information and resources, please visit the All Rise – Juvenile Treatment Court Project page.

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