



NATIONAL COUNCIL OF
JUVENILE AND FAMILY COURT JUDGES

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THE EVOLVING ROLE OF
THE PROSECUTOR
IN JUVENILE DRUG TREATMENT COURTS

ADVICE FROM THE FIELD



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In October 2018, the NCJFCJ convened a meeting of prosecutors working in juvenile drug treatment court (JDTC) teams across the country. They discussed the evolving roles of juvenile court prosecutors in drug treatment courts and how their role is expanding along with the research on substance use disorders. This brief summarizes their advice for prosecutors working in JDTCs and the broader JDTC team to better understand the roles of the prosecutor as a member of a problem-solving court.

WHY DOES THE JUVENILE JUSTICE SYSTEM NEED A JDTC?

JDTCs are specialized dockets within the juvenile justice system that provide targeted services to youth who have concurrent delinquency and substance use disorders. JDTCs are part of the larger body of problem solving courts that are characterized by a team approach, frequent judicial monitoring, and the use of strength-based behavior modification techniques to reduce crime and substance use.

While eligibility criteria sometimes vary across jurisdictions, the *Juvenile Drug Treatment Court Guidelines*¹ (JDTC Guidelines) specifically state that eligibility criteria should include the following:

- Youth with a substance use disorder.
- Youth who are 14 years old or older.
- Youth who have a moderate to high risk of reoffending.

(Note: substance use disorder and risk of reoffending should be identified through validated instruments).

ADVANCES IN THE FIELD

During the past twenty years, significant advances in the field of research around adolescent substance use and the developing adolescent brain have occurred.² Because the brain is undergoing significant change in structure and function during adolescence, this period of development is strongly influenced by the surrounding environment. The vulnerability of the teenage brain to drugs and alcohol and the connections

1 Office of Juvenile Justice and Delinquency Prevention (2015). *Juvenile Drug Treatment Court Guidelines*. U.S. Department of Justice. P.7. Available at <https://www.ojjdp.gov/pubs/250368.pdf>.

2 Somerville, L. H., & Casey, B. J. (2010). Developmental neurobiology of cognitive control and motivational systems. *Current opinion in neurobiology*, 20(2), 236-241.

Squeglia, L. M., Jacobus, J., & Tapert, S. F. (2009). The influence of substance use on adolescent brain development. *Clinical EEG and neuroscience*, 40(1), 31-38.

National Research Council. (2013). *Reforming juvenile justice: A developmental approach*. National Academies Press. P. 89-118.

National Institute on Drug Abuse (NIDA) (July, 2018). *Drugs, Brains, and Behavior: The Science of Addiction*. Retrieved from <https://www.drugabuse.gov/publications/drugs-brains-behavior-science-addiction/preface> on March 13, 2019.

between substance use disorders and delinquent behavior are facts that everyone working in JDTCs should be aware of. Unlike shoplifting, using drugs or alcohol during adolescence may cause brain changes that have profound and long-lasting consequences.³ According to the National Juvenile Justice Prosecution Center guidelines, juvenile prosecutors must have training in and an understanding of adolescent brain development and other factors specific to adolescent to prosecute them effectively.⁴

Much of the expanding research base on substance was outlined in the Surgeon General's Report on Alcohol, Drugs and Health.⁵ Some of the major findings of this report are:

- Substance use disorders are preventable conditions that often have their onset in adolescence and often have a chronic course.⁶
- The earlier people try alcohol or drugs, the more likely they are to develop a substance use disorder.⁷
- People who first use alcohol before age 15 are four times more likely to become addicted to alcohol at some time in their lives than are those who have their first drink at age 20 or older.⁸

The recognition of the distinctions between adolescents and adults, combined with advances in research, have created a new paradigm in how juvenile prosecutors handle cases in JDTCs. The emerging research on substance use disorders has prompted more attention on the consequences of substance use during adolescence.

3 Winters, K. C., & Arria, A. (2011). Adolescent brain development and drugs. *The prevention researcher*, 18(2), 21.

4 National Juvenile Justice Prosecution Center (2016.) *Juvenile Prosecution Policy Positions and Guidelines*. Available <http://ndaa.org/wp-content/uploads/Juvenile-Prosecution-Policy-Positions-and-Guidelines-11-12-2016.pdf>.

5 U.S. Department of Health and Human Services (HHS), Office of the Surgeon General (2016). *Facing Addiction in America: The Surgeon General's Report on Alcohol, Drugs, and Health*. Washington, DC: HHS. Available: <https://addiction.surgeongeneral.gov/sites/default/files/surgeon-generals-report.pdf>.

6 Ibid., p. 3-3

7 Ibid., p. 3-3

8 Grant, B. F., & Dawson, D. A. (1997). Age at onset of alcohol use and its association with DSM-IV alcohol abuse and dependence: Results from the National Longitudinal Alcohol Epidemiologic Survey. *Journal of Substance Abuse*, 9, 103-110. Found in <https://addiction.surgeongeneral.gov/executive-summary/report/prevention-programs-and-policies>.

WHAT IS THE ROLE OF THE JUVENILE PROSECUTOR IN JDTCs?

Research findings have transformed the role of the juvenile court prosecutor. Because of the preventable nature of this chronic issue, the importance of early intervention, and the connection between substance use and delinquency, prosecutors in JDTCs across the country have many roles. These roles include advocate for public safety and monitor of accountability, gatekeeper to the JDTC, community leader and educator, and community connector.

ADVOCATE FOR PUBLIC SAFETY/ ACCOUNTABILITY MONITOR

One of the primary responsibilities of a prosecutor in any court, including JDTCs, is that of an advocate for public safety. With so much attention placed on the youth in these proceedings, the prosecutor must make sure that the concerns for community safety remain a priority in JDTCs and that the voices of victims are heard.

Prosecutors also represent the public interest in system accountability. They have a role in ensuring that JDTCs provide or refer youth to services that are evidence-based and respond to the youth's individualized risk and needs with a focus on pro-social skill development and positive behavior change. Simultaneously, prosecutors must also work to hold JDTC participants accountable in achieving goals related to drug-free living, restitution, community service, school engagement, employment, and involvement with pro-social activities and peers. It is through acquiring skills and engaging in these activities that youth learn to become responsible, make healthy decisions, and repair the harms they have caused.

SYSTEM GATEKEEPER

Traditionally, as gatekeeper to the system it is often the juvenile court prosecutor who makes the initial decision about eligibility to participate in JDTCs. JDTCs have been shown to be most effective for those with moderate to high risk/needs identified through valid screening and assessment instruments. Through the use of these practices, the prosecutor is key to ensuring the right youth are accepted into JDTCs. This traditional gatekeeping role has changed somewhat in recent years because many

of the moderate to high-risk youth have already been adjudicated so that eligibility decisions are made later in the proceedings.

For low-risk youth without a substance use disorder, prosecutors should utilize diversion programs that are more appropriate for these youth. As set forth in the JDTC Guidelines: "Potential program participants who do not have a substance use disorder and are not assessed as moderate to high risk for reoffending should be diverted from the JDTC process." Prosecutors should be familiar with the availability of diversion options in their jurisdictions, such as drug and alcohol education, to ensure options are available for youth who are not appropriate for JDTCs.

COMMUNITY LEADER AND EDUCATOR

The juvenile prosecutor has a role to play in addressing substance use and very often it takes place outside the walls of the treatment court. As community leaders, prosecutors in JDTCs play a large role in advocating for JDTCs and educating the community regarding how they work. This may include speaking with community groups and other juvenile court stakeholders regarding the goals and activities of JDTCs, the eligibility criteria, and the monitoring and supervision of youth while connecting them to effective treatment and other community resources. JDTC prosecutors are also an integral part of the education of the community regarding the vulnerability of the developing adolescent brain to drugs and alcohol and the connection between substance use and delinquent behavior. The notion that substance use is a harmless rite of passage for teenagers must be countered with the science about the vulnerability of the adolescent brain to alcohol and drugs.

COMMUNITY CONNECTOR

There is a growing recognition that treatment alone is never enough for youth with substance use disorders. The period after treatment is a time of increased risk of relapse, and in an effort to address this, the drug court team should play an important role in connecting youth with those community resources and activities that can keep youth motivated to make healthy decisions. Prosecutors should help identify peer mentors, activities, and educational and vocational opportunities within the broader community. Sending youth back to the same environment can increase the risk of relapsing and reoffending.

WHAT SHOULD THE PROSECUTOR KNOW?

First and foremost, prosecutors must know that they want to work in juvenile court. It is a demanding assignment. As noted, juvenile prosecutors have several roles, wear many hats, and have to manage a wide variety of issues. Not every prosecutor is a good fit for a JDTC team. It is a mistake to rotate prosecutorial staff without regard to their level of experience and desire to make a difference, which each prosecuting attorney should bring to a JDTC. Quite simply, a prosecutor in a JDTC should want to work with youth and families and have a desire to have a positive impact on outcomes for the youth and for the community.

It is also critical that prosecutors receive training and legal education both prior to joining a JDTC team and on a reoccurring basis regarding JDTCs and their use of incentives and sanctions, adolescent development, substance use disorders, and evidence-based treatment options. The vulnerability of the adolescent brain to drugs and alcohol is a key point from research and it is imperative that prosecutors remain informed about prevention, early intervention, treatment, and relapse strategies. As the evidence base continues to expand on problem-solving courts, prosecutors should stay on top of these developments through various resources.

Adolescent Development Resources

- Reforming Juvenile Justice: A Developmental Approach: <https://www.nap.edu/read/14685/chapter/6>
- HHS Office of Adolescent Development: Substance Use and Adolescent Development: <https://www.hhs.gov/ash/oah/adolescent-development/substance-use/index.html>

Substance Use Resources

- Recovery Research Institute: www.recoveryanswers.org
- National Institute for Drug Abuse: www.drugabuse.gov
- Substance Abuse and Mental Health Services Administration: <https://www.samhsa.gov/>

Juvenile Drug Treatment Court Resources

- National Association of Drug Court Professionals: www.nadcp.org
- NCJFCJ Juvenile Drug Treatment Court Information Center: <http://www.ncjfcj.org/our-work/jdte-guidelines>

To stay informed of training opportunities, prosecutors should check with their state prosecutor coordinator and also check federal websites including:

- National District Attorney's Association: www.ndaajustice.org

JDTC prosecutors also need to be familiar with treatment interventions, services, and supports that have been proven to be effective with adolescent substance users. As with other team members, the prosecutor needs to be knowledgeable about the training, certifications, and other quality control measures that treatment providers undertake to maintain the integrity and fidelity of the evidence based treatment programs and interventions they provide.

NCJFCJ's Adolescent-Based Treatment Database (<https://www.ncjfcj.org/our-work/adolescent-based-treatment-interventions-and-assessment-instruments>) is a one-stop shop for JDTCs researching adolescent-focused treatment interventions and assessment instruments, including:

- *Individual and Group Interventions* including Adolescent Community Reinforcement Approach (A-CRA), Moral Reconciliation Therapy (MRT) and Multi-Systemic Therapy of Juvenile Offenders (MST-JO)
- *Family Interventions* including Brief Strategic Family Therapy (BSFT) and Functional Family Therapy (FFT)
- *Assessment Instruments* including the Global Appraisal of Individual Needs (GAIN-SS / GAIN Q3) and Massachusetts Adolescent Screening Instrument (MAYSI)

JDTC prosecutors must also know the communities that they serve. It is important that they get out of the office and see what is happening in their communities in an effort to be sensitive to community and cultural needs. The problem of drug and alcohol use is often very nuanced and must be examined at the community level. They should also collaborate with all of the community partners who play a role in helping youth engage in healthy, pro-social activities that will benefit the community. Such community knowledge and visibility is tied to the role of the JDTC prosecutor as a leader and educator to the community.

SKILLS AND ATTRIBUTES

First and foremost, prosecutors must know that they want to work in juvenile court. It is a demanding assignment. As noted, juvenile prosecutors have several roles, wear many hats, and have to manage a wide variety of issues. Not every prosecutor is a good fit for a JDTC team. It is a mistake to rotate prosecutorial staff without regard to the level of experience and desire to make a difference that each prosecuting attorney should bring to a JDTC. Quite simply, a prosecutor in a JDTC should want to work with youth and have a desire to have a positive impact on outcomes for the youth and for the community.

Prosecutors in JDTCs must be highly qualified and dedicated members of the JDTC team. In JDTCs, they must be able to balance a number of often competing roles, requiring advanced skills and attributes including:

- The ability to collaborate with the JDTC team effectively;
- The ability to problem solve by identifying problems accurately and communicating solutions effectively;
- The ability to hold youth accountable with appropriate sanctions to address community safety concerns; and
- The ability to interact with youth and families in a non-adversarial approach to help participants meet their goals.

CHALLENGES

As with any court, juvenile court prosecutors face a number of challenges as members of JDTCs.

CHALLENGE

Working with adolescents poses special challenges. Adolescence is a period of growth and development, therefore progress with behavior change may not be linear and youth may still engage in impulsive and risky behaviors, often resulting in relapse. Working effectively with adolescents takes much patience, various strategies, and interventions to get youth truly engaged and committed to success.

ADVICE

- Recognize that all youth are different and are motivated in different ways. Be willing to try a variety of measures to find an approach that works for a particular youth.
- Use graduated sanctions and incentives, informed by the youth's motivation, to keep the youth on track to success.
- Engage youth in healthy activities with other pro-social individuals. Brainstorm extensively with adolescents a menu of healthy activities from which they can choose.⁹
- Cultivate relationships with older individuals who support the youth's healthy choices.
- Consider Alternative Peer Groups (APG) that offer counseling sessions and frequent supervised pro-social activities to create bonds with positive peers who model healthy attitudes and behaviors.¹⁰

CHALLENGE

Another challenge often involves reluctant or difficult family members who are not interested in participating in the JDTC process or related services and interventions. Some may have substance use issues of their own or have beliefs that are not supportive of courts or treatment in general. Given that a supportive adult is critical to a youth's success, it's important that prosecutors work to engage families and make the JDTC process family friendly.

ADVICE

- Begin family engagement efforts as soon as a youth is accepted into the JDTC.
- Build family engagement into the mission and vision statement for the JDTC.
- Explain the goals of the JDTC process and what is expected of participants early and often.
- Build rapport by focusing on the youth and family's strengths.
- Communicate with respect by asking for input from families.
- Respect the culture and diversity of JDTC youth and families.

9 Nash, Marcus, Engebretson & Bukstein (2015) Recovery From Adolescent Substance Use Disorder: Young People in Recovery Describe the Process and Keys to Success in an Alternative Peer Group, *Journal of Groups in Addiction & Recovery*, 10:4, 290-312, DOI: 10.1080/1556035X.2015.1089805.

10 Crystal Collier, Robert Hilliker & Anthony Onwuegbuzie (2014) Alternative Peer Group: A Model for Youth Recovery, *Journal of Groups in Addiction & Recovery*, 9:1, 40-53.

CHALLENGE

An emerging concern is the fear of increasing marijuana use. While rates of adolescent alcohol and tobacco use have steadily declined over the past several years, the use of marijuana has plateaued.¹¹ This is especially troubling given the expansive legislative efforts that are currently taking place across the country to legalize marijuana. Given that adolescent use is often proportional to perceived risk, the legalization efforts could lead to the mistaken belief among youth that marijuana use is not harmful.

ADVICE

- Remain vigilant in sending the message that marijuana use is still illegal for youth.
- Raise awareness about the vulnerability of the developing adolescent brain to substance use, especially marijuana.
- Educate parents not only about the dangers of adolescent substance use, but also the need to model behavior they wish to see in their children.

CONCLUSION

The culmination of the research during the past twenty years along with reforms made to the juvenile justice system have had a tremendous influence on the role of the juvenile court prosecutor in JDTCs. Juvenile courts across the country are moving forward with innovative strategies, and many of these efforts are being led by juvenile court prosecutors. Efforts to incorporate innovative prevention, early interception, treatment, and relapse support are happening across the country and are making JDTCs an especially critical component of the comprehensive effort to save and transform young lives.

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¹¹ Johnston, L. D., O'Malley, P. M., Miech, R. A., Bachman, J. G., & Schulenberg, J. E. (2016). Monitoring the Future national survey results on drug use, 1975-2015: Overview, key findings on adolescent drug use. Ann Arbor: Institute for Social Research, The University of Michigan.



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