

The Need for Trauma-Informed Drug Testing Protocols in Treatment Court Programs

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Abstract

Individuals with a substance use disorder (SUD) and those involved in the justice system, particularly within treatment courts, are at a heightened risk of having a trauma history. In response to this issue, many treatment courts have adopted trauma-informed practices, considering language, environments, and treatment services. However, the re-traumatizing potential of traditional drug testing procedures has received limited attention. Many treatment courts employ intrusive human-observed urine collection, which can be unsafe, shaming, humiliating, and invasive for individuals with trauma histories. This commentary advocates for trauma-informed approaches to drug testing, emphasizing the preservation of dignity and healing while ensuring the integrity of toxicology data. By combining trauma-informed principles with best practices in drug testing, a more compassionate and supportive environment can be created within treatment courts, ultimately leading to improved outcomes for participants affected by substance use and mental health disorders. This commentary aligns the Substance Abuse and Mental Health Services Administration's trauma-informed principles and proposed best practices for trauma-informed drug testing in the Bureau of Justice Assistance (BJA) Comprehensive Opioid, Stimulant, and Substance Use Program (COS-SUP) Technical Assistance Brief.

Keywords: trauma-informed, substance use disorders, treatment courts, drug-testing protocols, technology

The Need for Trauma-Informed Drug Testing Protocols in Treatment Court Programs

Recognizing the prevalence of trauma history amongst those with substance use disorders (SUD), the Bureau of Justice Assistance’s (BJA) Comprehensive Opioid, Stimulant, and Substance Use Program (COSSUP) recently produced a Technical Assistance Brief on trauma-informed drug testing policies in courts (Breitenbucher et al., 2023). This commentary advocates for trauma-informed drug testing protocols in all treatment court programs.

In 2016, the National Drug Court Resource Center (now the National Treatment Court Resource Center) published an article advocating for the urgency to address trauma in treatment courts (Fuhrman, 2016). Yet, despite advancements in technology, the stigmatizing and traumatizing practices of human-observed urine drug testing remain the “gold standard” in treatment courts. As leaders in justice reform and trauma-informed legal systems for the past three decades, we must strive to eliminate any practices that could harm our participants. The time has come to implement trauma-informed drug testing and provide not just lip service and piecemeal, but end-to-end trauma-informed services to our clients.

Trauma and Justice-Involved Individuals

Trauma is remarkably prevalent among justice-involved individuals, to the extent that it’s almost universally experienced in this population (Madera, 2017). Defined as physically or emotionally harmful events with lasting adverse effects (SAMHSA, 2014), trauma disproportionately impacts those with substance use and/or mental health disorders. Multiple studies highlight its prevalence: 56% of male inmates in New Jersey reported adverse childhood experiences (Wolff, Shi, & Siegal, 2009), 88% of justice-involved females reported traumatic histories (Wolff et al., 2013), and in mental health diversion programs, 96% of women and 89% of men reported trauma (Policy Research Associates, 2011). Additionally, a study found that 67% of women and 73% of men in mental health courts experienced childhood physical abuse (Freeman & Lautar, 2015).

Therefore, it is crucial to recognize that many participants in treatment courts may still be entrenched in harmful environments and relationships. Moreover, within the realms of behavioral health and the criminal justice system, numerous trauma survivors undergo re-traumatization. This phenomenon involves being “triggered,” often by sensory stimuli like smells, sounds, or sensations, which evoke memories of past abuse. Triggers for re-traumatization can range from invasive procedures like observed urine drug testing. In addition, changes in environment, verbal abuse, and shaming serve to keep past wounds raw and may prompt instinctive, self-protective reactions, including outbursts, withdrawal from treatment or absconding (SAMHSA, 2013).

The Need for Trauma-Informed Drug Testing

Endorsed by entities such as the Substance Abuse and Mental Health Services Administration (SAMHSA) and (BJA), drug testing is a compliance monitoring tool and a

decisive factor in determinations affecting case planning and treatment level-of-care placement. However, despite the existence of best practices for drug testing outlined in treatment courts, there is a notable lack of generalizable studies, leading to inconsistencies in applying these best practices and standards. This lack of consistent adherence contributes to risks of re-traumatization, stigma, and inequities.

The recognition of these challenges and the shift towards a more empathetic framework underscore the need for trauma-informed drug testing. Such an approach would not only align with the broader movement toward trauma-informed care, but also specifically address the unique sensitivities associated with drug testing. By redesigning drug testing protocols to be trauma-informed, programs can reduce the risk of re-traumatization, stigma, and inequities, ultimately leading to more equitable and effective outcomes for individuals and families (Estefan et al., 2012; Furman, 2016). Implementing trauma-informed protocols can enhance engagement and reduce program dropout rates, directly addressing equity by ensuring that drug screening practices do not disproportionately affect or penalize marginalized communities, thus promoting a more balanced and fair approach to drug testing.

It is also critical to acknowledge the potential of current drug testing practices to inflict new traumas. This is a complex issue that necessitates careful consideration to distinguish from the effects of re-traumatization, highlighting the intricate nature of trauma and its implications within current drug testing protocols. The transition to trauma-informed drug testing is not only a procedural change; it's a necessary step in aligning treatment courts with the evolving understanding of trauma and its widespread impact.

Introduction to Trauma-Informed Systems

Trauma-informed care represents a fundamental shift in approach, acknowledging the widespread impact of trauma and understanding paths for recovery. It involves recognizing the signs and symptoms of trauma in individuals and responding by fully integrating this knowledge into policies, procedures, and practices.

SAMHSA defines trauma-informed care as an approach that integrates the awareness and understanding of the impact of trauma into all aspects of service delivery (2019). According to SAMHSA's six key principles, trauma-informed care encompasses safety, trustworthiness and transparency, peer support, collaboration and mutuality, empowerment and choice, and understanding cultural, historical, and gender issues. Trauma-informed care seeks to change the paradigm from asking "What's wrong with you?" to "What happened to you?" by understanding that the impact of traumatic events affects everyone differently. SAMHSA's model for trauma-informed practice is built on the "4 R's": realizing trauma's impact, recognizing its signs and symptoms, ensuring a system is in place to respond to trauma, and resisting re-traumatization (SAMHSA, 2014). Implementing these principles in treatment courts can reduce secondary traumatization, minimize disruptions in participants' lives, and end stigmatizing drug testing practices, enhancing overall trauma care effectiveness (Breitenbucher et al., 2023; Furman, 2016).

Considerations for a Trauma-Informed Drug Testing Protocol

To incorporate trauma-informed care into drug testing practices, a crosswalk between the National Drug Court Institute (NDCI) and SAMHSA's trauma-informed care principles can be helpful. The crosswalk involves aligning key practices and principles of trauma-informed care with drug testing protocols:

1. **Urine Collections:** When urine testing is used, DNA-matched urine collections should be implemented. This technology ensures the sample belongs to the donor without the need for intrusive human observation.
2. **Oral Fluid Collections:** When oral fluid testing is used, the collection should be facilitated via a recorded process that is then reviewed, authenticated, and confirmed by a trained proctor. This can be done in a private and noninvasive manner, respecting the individual's dignity.
3. **Avoidance of Invasive Methods:** Hair, blood, and patch drug testing methods should generally be avoided due to their invasive and potentially re-traumatizing nature.
4. **Client Choice:** If hair, blood, or patch testing is deemed necessary for specific cases, individuals should be given a choice as to their preference. This empowers them and helps mitigate potential trauma triggers.
5. **Testing at Home or Workplace:** Whenever possible, drug testing should permit the individual to test from their home or place of work. This approach reduces the potential for shaming or embarrassing experiences, promoting a sense of autonomy while also reducing the negative impact to a client's work and childcare responsibilities.
6. **Trauma-Informed Language:** Language is crucial when explaining the reasons for a particular drug testing method. Trauma-informed scripts should be followed to communicate why a specific method is chosen and how the individual's trauma is being considered and respected with sensitivity.
7. **Dignity and Worth of the Individual:** Emphasize non invasive drug testing methods that respect the individual's privacy and dignity.
8. **Cross-Systems Collaboration:** Work collaboratively with various systems and stakeholders involved in treatment courts to ensure a cohesive and supportive approach to drug testing.
9. **Risk and Safety Planning:** Establish comprehensive safety measures and risk assessment strategies for the drug testing process, ensuring the protocols are designed to safeguard the mental and physical well-being of participants and their families. This includes creating a supportive environment that minimizes potential stressors and triggers that could lead to re-traumatization.
10. **Cost Considerations and Training Needs:** Analyze the cost-effectiveness of implementing trauma-informed drug testing practices and develop a structured training program for staff. Numerous studies indicate, "a trauma-informed approach can improve patient satisfaction and outcomes while decreasing overall costs (National Council for Mental Wellbeing, 2017). Training should focus on the

principles of trauma-informed care, emphasizing the importance of respectful and non-invasive testing methods, and equipping staff with the skills needed to handle sensitive situations compassionately and effectively.

Incorporating trauma-informed approaches into drug testing protocols within treatment courts not only respects the dignity and well-being of participants but also has the potential to yield more positive and sustainable outcomes in the context of SUD intervention and other treatment court services (Berliner & Kolko, 2016). Such an approach not only aligns with best practices in trauma-informed care but also sets the stage for more positive and sustainable outcomes in substance use disorder (SUD) interventions and other related services. Implementing these protocols has the potential to reduce the risk of re-traumatization, increase participant engagement and compliance, and ultimately contribute to the overall effectiveness of treatment court programs. This thoughtful alignment with trauma-informed principles underscores a commitment to healing and recovery, paving the way for a more compassionate and effective justice system.

Technology Advancements: Self-Collected Testing

Important advancements in technology now exist which support the principles of trauma-informed care by emphasizing non-invasive drug testing methods that respect the individual's choice, privacy, and dignity. Technology allows for self-collected drug testing while maintaining the integrity of the urine sample. Implementing self-collected drug testing methods can significantly reduce the stress and potential re-traumatization associated with traditional drug testing settings (Breitenbucher et al., 2023). Specifically, technological advancements assist with two key methods: DNA-Matched Urine Testing, which ensures the sample's integrity without human observation, and Artificial Intelligence (A.I.), video-recorded oral fluid testing that offers a less triggering and more private alternative with facial-recognition software and video-recorded, proctor-verified processes. This shift towards trauma-informed drug testing is not just procedural but represents a significant transformation in the ethos of treatment court services, aiming for more humane and effective treatment of participants.

Conclusion

Over the past decade, the implementation of trauma-informed practices has underscored the need for a comprehensive approach to addressing trauma, particularly in treatment courts, pretrial, probation, parole, and child welfare. This evolution, integrating trauma screening and resilience-building, is transforming these courts and agencies into spaces of healing. Aligning drug testing methods with these trauma-informed principles is vital for the effectiveness and ethical integrity of treatment court programs, supporting the healing and empowerment of those affected by trauma, substance use, and mental health disorders. Looking ahead, the continuous research, adaptation, and application of trauma-informed care best practices are crucial for developing a more humane, effective, and equitable justice system that supports recovery and self-efficacy.

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