



7 (Easy) Steps to Confidentiality and Information-Sharing in Juvenile Drug Courts

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One of the most frequently cited barriers to delivering comprehensive, integrated services to youth in the juvenile justice system, is lack of information-sharing among agencies. This is especially true in juvenile drug courts (JDC) which are foundationally dependent on collaboration between agencies. Many substance abusing youth have difficulties and risk factors that cause multiple histories to exist in multiple systems. They may have medical problems that shed light on their behaviors, school related issues, prior brushes with the law, or may have been picked up for truancy or curfew violations. In addition, it is more probable than not that these young people have been in more than one school. For these reasons, it is not unusual for youth participating in JDC to be served by multiple agencies working with the youth and family simultaneously.

Courts, agencies, and families will benefit significantly from greater cross-system information-sharing and collaboration. Delivery of comprehensive services is not possible without accurate information regarding youth and families; therefore, information exchanges among JDC team members and agencies should be the norm and not the exception.

Recognizing that confidentiality rules and differing philosophies about information-sharing is a potential barrier to the success of JDCs, the following seven

easy steps to confidentiality and information-sharing are listed below to assist the court and all partnering agencies in delivering services to young people participating in juvenile drug court.



CREATE A JUVENILE INFORMATION-SHARING STAKEHOLDER GROUP.

The stakeholder group should be comprised of representatives from participating agencies, youth and families, and/or a family advocate. Judges, as leaders and conveners in local jurisdictions, often drive the process of setting up a permanent stakeholder group for purposes of system change/enhancement. The individuals sitting on the stakeholder group should have authority to make decisions on behalf of their agency or organization. Families and youth are important to the stakeholder group as they are usually moving in-and-out of multiple systems, each of which collects information as part of their intake and processing. Youth and families can advise decision makers about effective information-sharing practices and duplicative efforts and processes. On a system-wide level, the stakeholder group should collaborate to make formal, long-term commitments and policy regarding the sharing of information to accomplish the delivery of comprehensive, integrated services for youth involved in the juvenile justice system. This

process should also include designating a liaison to work with the JDC(s) to resolve any confidentiality issues or conflicts specific to working with youth and families involved in a juvenile drug court program.



DETERMINE WHAT INFORMATION IS CURRENTLY COLLECTED AND THE LAWS GOVERNING ITS RELEASE.

Courts, schools, treatment providers, and other agencies providing services to youth and families create and manage an enormous amount of information about their clients. The information can come directly from the youth and family, from outside the agency or from personal observation. It is critical that the team know what information is being collected by participating agencies and the laws governing release of this information. The JDC team should conduct an inventory of all types of information collected by participating agencies. The inventory will reveal redundancies and gaps in information collected. Consider the following in responding to and making requests for information:

- Is disclosure of the requested information regulated by a federal or state statute?
- Does the statute target a specific situation or type of information?
- Is the requested information public record under state or federal law?
- What is the agencies policy on release of the information?
- Has consent been given to release the information being requested?



IDENTIFY SPECIFIC INFORMATION TO BE SHARED AND WHO NEEDS TO KNOW WHAT.

Once the JDC team decides to share specific information in order to serve youth and their families more effectively; a series of questions should be raised immediately to determine common information and how the information will be shared. The team should have a shared vision, mission, goal, and objective for juvenile information-sharing. These questions will help analyze any confidentiality provisions and exceptions that should be in place.

- What information do you need? For what purpose?
- What information is deemed confidential?

- What information is not confidential?
- Are there any exceptions to the confidentiality restriction?
- Under what conditions should the information should be shared?
- What are the requirements for release?
- Can information be shared with or without the consent of the youth or parent?
- Who can give consent for information pertaining to minors?

The proper mechanism for exchanging information about juveniles and their families is by informed consent. Consent is generally demonstrated by a written release signed by the individual who is the subject of the information and in the case of juveniles, a parent or guardian. The youth and families, who are the subject of these consent forms must (1) understand the purpose and extent of the consent being requested and (2) be given the opportunity to review and acknowledge any memorandum of understanding entered into by the juvenile drug court partners regarding exchanges of their information. Requesting consent forms from youth and their parents demonstrates a respect for their privacy.



ENTER INTO A MOU THAT IS SIGNED AND ENDORSED BY EACH PARTICIPATING JUVENILE DRUG COURT TEAM MEMBER.

JDC team members need access to information about youth across systems to achieve the stated goals of the court. One way to gain access is through an interagency information agreement in the form of a Memorandum of Understanding (MOU). The MOU can create a clear legal and ethical path to exchanging information about the youth and families served. Developing an information-sharing approach grounded in “informed consent” can help the team in exchanging information and coordinating services for the youth and their families. The MOU formalizes agency-to-agency connections. The MOU should specify:

- What information will be shared?
- How the information will be shared?
- Who will have access to the information?
- The purpose for information-sharing?
- Assurances by the participating agencies that they will not disclose the information further,

except as directed by the agreement.

- Any requirements mandated by applicable statutory confidentiality provisions.
- Agreement that participating agencies will use only the information necessary to achieve the juvenile drug court's purposes and to support defined activities.
- Agreement on ways the youth and/or the youth's parent(s) and/or legal guardian can revoke their consent.

Interagency agreements and/or MOUs make it possible for agencies to share information, without violating the privacy of youth and their families.



BE AWARE OF INFORMAL VERBAL CONVERSATIONS ABOUT YOUTH AND THEIR FAMILIES.

The most common method of information-sharing among the JDC team is informal exchange, usually verbal and often over the telephone. This method is generally used for very limited types of information exchanges, such as confirming that a particular agency is working with a certain youth or checking to see whether a child is attending school. Individuals in different agencies who have known each other for some period of time and who have established a relationship of trust often use informal verbal exchanges. Be aware that informal information-sharing may not comply with statutory requirements since it is often done without consent or other statutory authorization. Although this practice may be routine and common, it may be a trap – informal verbal conversations are temporary; there is usually no written document and no record. The fact that this is common practice does not make it legal or ethical.



CROSS-TRAIN MEMBERS OF THE JUVENILE DRUG COURT TEAM AND THEIR RESPECTIVE AGENCIES ON AGENCY-SPECIFIC LEGAL MANDATES, POLICIES, PROCEDURES AND RESOURCES

Successful information-sharing occurs when team members are trained in all aspects of the information-sharing processes – including purpose, benefits, and expected outcomes. Most importantly every participating member of the JDC team, with access to the youths' information, should understand the privacy policies and practices of each agency, including informed consent processes. Training should address:

- Rules that govern the JDC team members and the provisions made for sharing information.
- Specifics about the information needed by the judge, legal staff, treatment providers, probation officers, social/human service agencies, mental health, education, community based organizations, pro-social agencies, parents, and all who will be participating in the JDC.
- The reasons why the party needs the information.
- What information cannot be shared?
- The importance of informed consent.



REVIEW POLICIES REGULARLY

As with any process, things change over time and the team will learn as they go. Periodic assessments of the juvenile drug court teams' information-sharing policy and MOU should be conducted to ensure that the policies and procedures are working well. As policies and procedures are introduced or modified, the new requirements need to be shared with the stakeholder group and all team members informed of the new requirements. In many cases it is policies and practices, and not laws that stop the sharing of information. In either case, there may be instances where both law and policy need to be changed to increase access to information.

A high level of trust among partnering agencies paves the way for full team member participation, cooperation, and collaboration. And, although, protections have been established to prevent information disclosure for illegitimate reasons, confidentiality laws are not a blanket prohibition against service providers, schools, and court personnel communicating with each other. It is simply a protection against sharing information over a person's objection or sharing information that does not serve a specific purpose in the youth or family's best interest. JDC teams are encouraged to keep in mind that protection of personal privacy and the delivery of services through collaborative information-sharing are not mutually exclusive goals.