



The Right Youth for Your  
Juvenile Healing to Wellness Court  
*How to define your Target Population  
and Set Eligibility Criteria*  
April 25, 2024



**Tribal Youth Resource Center**  
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**TRIBAL YOUTH  
RESOURCE CENTER**

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**WELCOME &  
OPENING  
IN A GOOD WAY**



# ▶ BEFORE WE GET STARTED...

- *This project was supported by Grant #15PJDP-21-GK-04048-MUMU awarded by the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice.*
- *The opinions, findings, and conclusions or recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect those of the Department of Justice.*



## **Vision:**

*Envisioning a future where Indigenous youth thrive through traditional life ways.*

## **Purpose:**

*Enhancing the opportunities for Indigenous communities to expand their potential in protecting and nurturing their most sacred asset – the youth.*





## ▶ TRIBAL LAW AND POLICY INSTITUTE A Native American operated non-profit:

Dedicated to providing free publication resources, comprehensive training, and technical assistance for Native nations and tribal justice systems in pursuit of our vision to empower Native communities to create and control their own institutions for the benefit of all community members, now, and for future generations.

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**Tribal Healing to Wellness Court**



**Walking on Common Ground**







## PRESENTERS



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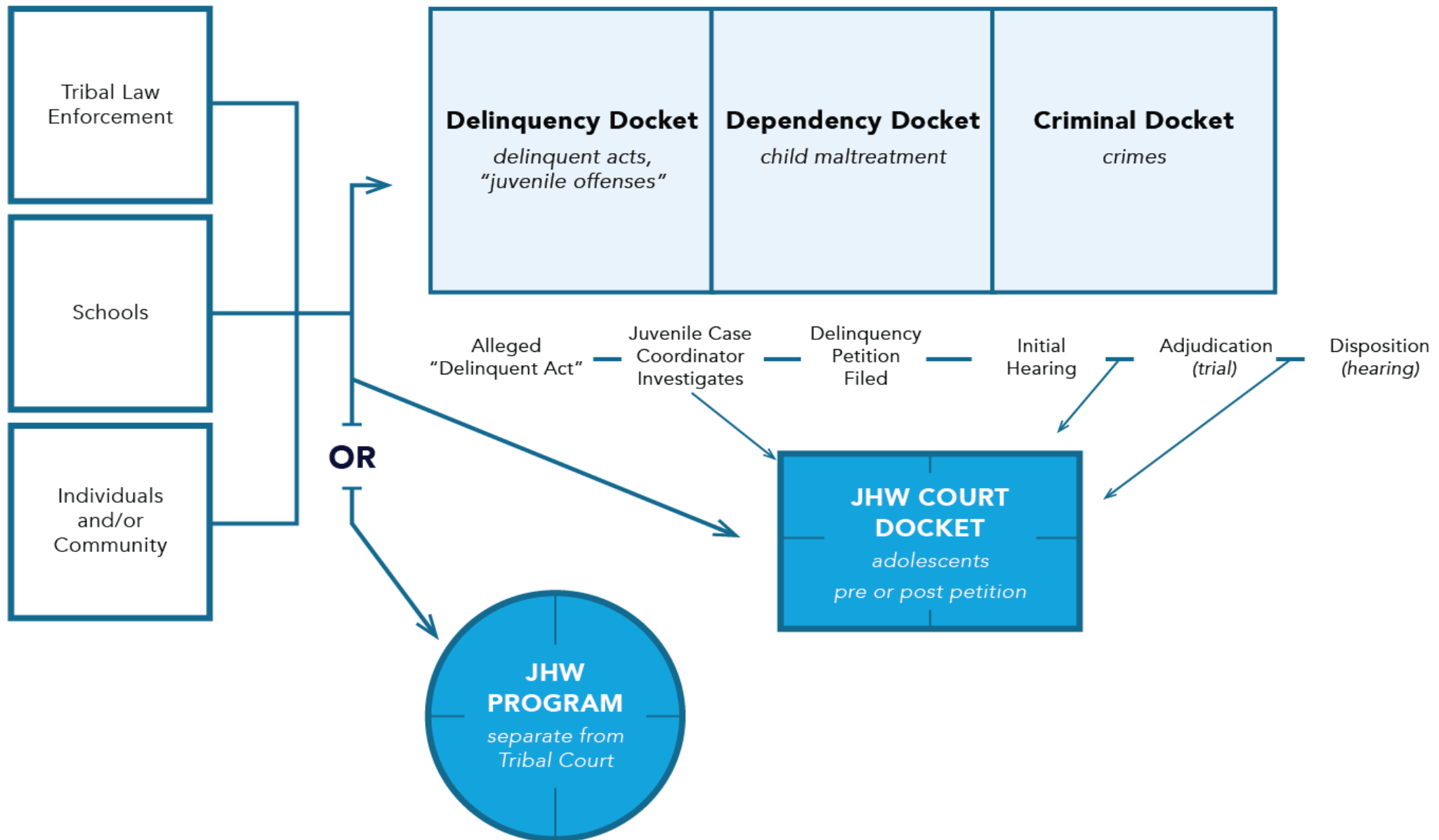
# LEARNING OBJECTIVES

## You will learn:

1. how your choice of whether you establish a Juvenile Healing to Wellness (JHW) Court versus a Program-only is directly related to how you define your “Target Population” and “Eligibility Criteria;”
2. how this decision turns on who are “the right youth” for your JHW Court/Program;
3. that JHW Courts are designed to serve moderate-to-high-risk/need youth;
4. what to consider in defining your “Target Population,” including what data;
5. what to consider in crafting your “Eligibility Criteria;”
6. about Risk-Need-Responsivity (RNR) assessment tools and the debate surrounding them;
7. that RNR tools are useful and protect against bias and harm; and
8. that your team may use RNR findings or scores in crafting your “Eligibility Criteria,” which will lead your referral sources to refer “the right youth for your JHWC.”

# JUVENILE HEALING TO WELLNESS COURT VS. PROGRAM

## The Tribal Court "Adversarial Dockets"





## ▶ Polling #1

- A question prefacing the next set of slides will be presented- tell us what you know!
- Input will be anonymous.



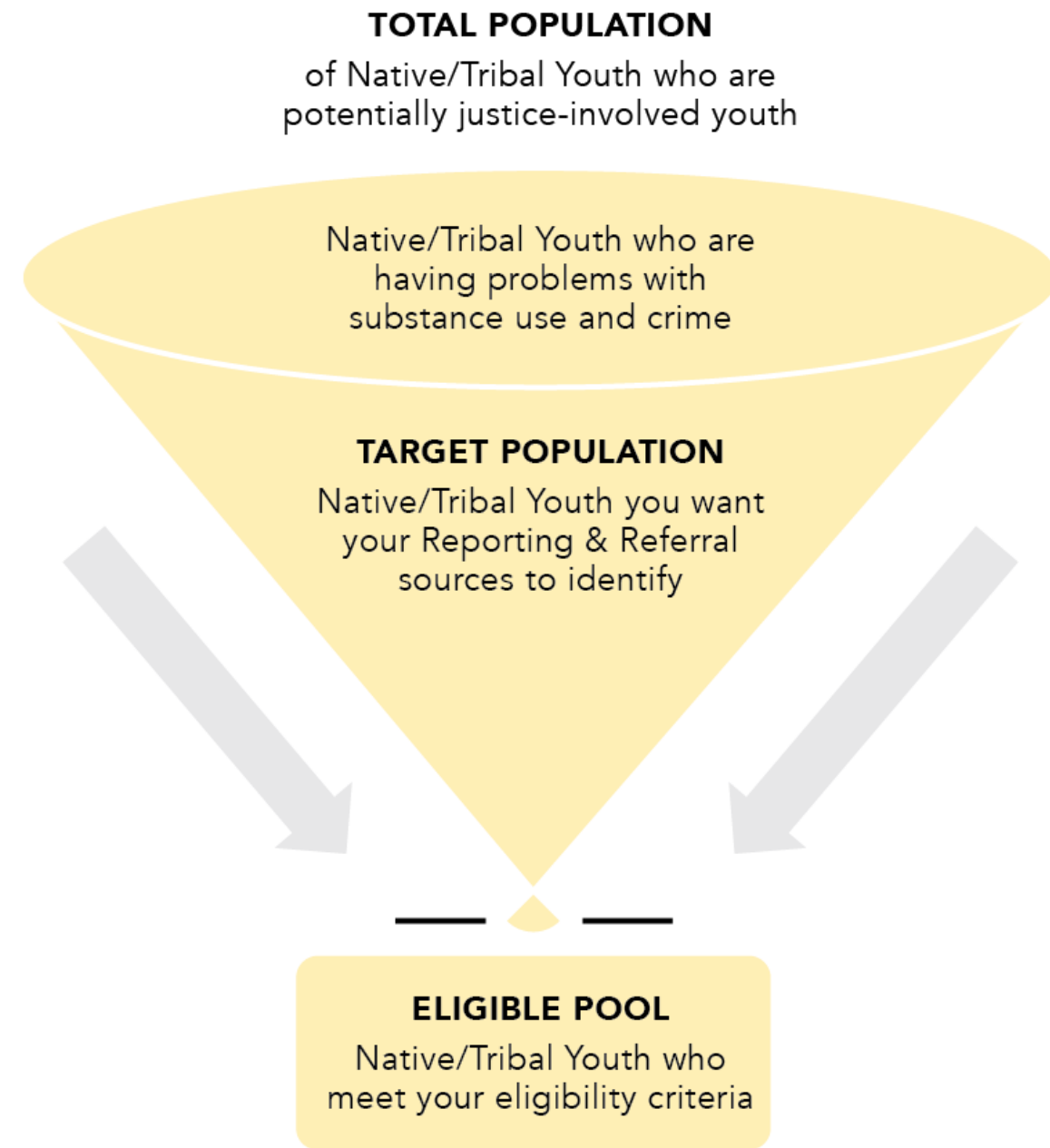
# FUNNEL OF NATIVE/TRIBAL YOUTH

*As part of planning (or reconsidering) the purpose and structure of your Juvenile Healing to Wellness Court (JHWC), you will need to:*

- *Define your Target Population*

*And*

- *Craft your Eligibility Criteria*





# ▶ JUVENILE DRUG TREATMENT COURT (JDTC) GUIDELINES

Objective 2. Ensure equitable treatment for all youth by adhering to **eligibility criteria and conducting an initial screening**

Guideline 2.1. 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**

# ▶ ESTABLISHING ELIGIBILITY CRITERIA

A common shortcoming of both JHWC and JDC eligibility criteria is that they:

1. Lack clear inclusionary criteria

AND

2. They are not aligned with the screening and assessment instruments used

- Consequently, JHWC teams make exceptions when determining which youth will be accepted
- Thus, the outcomes of the decision process become subjective and unpredictable

Example:

***Adolescents 13-18 who have been in trouble with the law, primarily due to actions linked with illicit substance abuse. In particular, juveniles on probation who have substance abuse problems.***

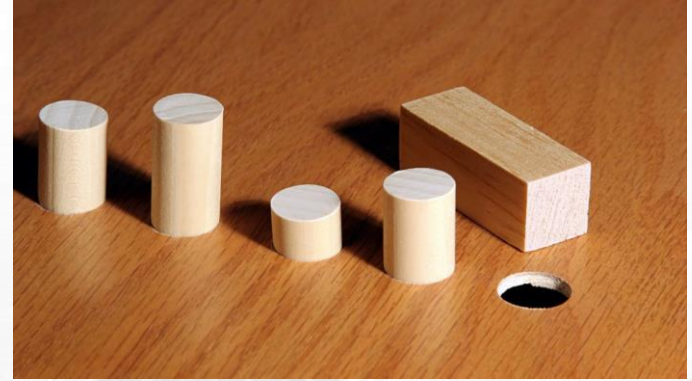
***Clients are not eligible if they have been convicted of a violent weapons offense, a sex offense, major drug sales, or a first degree residential burglary. Program is not open to minors in placement.***

- Vague language: “in trouble with the law” and “have substance abuse problems”
- Contains more exclusionary factors than inclusionary factors
- Difficult for others to determine who exactly fits this population



# ▶ ESTABLISHING ELIGIBILITY CRITERIA (CONT.)

Rather than focusing on characteristics that are not wanted by the team (e.g., drug sellers, sex offenders), *JHWC teams should determine the right youth for the services they have* and address the needs that the JHWC is designed to address



## JHWC team should:

1. Look to their data to set criteria based on need;
2. Have an understanding of the importance of making structured\* and data-based decisions;

AND

3. Review, understand, and incorporate risk/need screening instruments into the process.

\*“Structured” – involves a protocol or matrix with standard inquiries, as opposed to the point of view of an individual alone

## ▶ Polling #2

- A question prefacing the next set of slides will be presented- tell us what you know!
- Input will be anonymous.





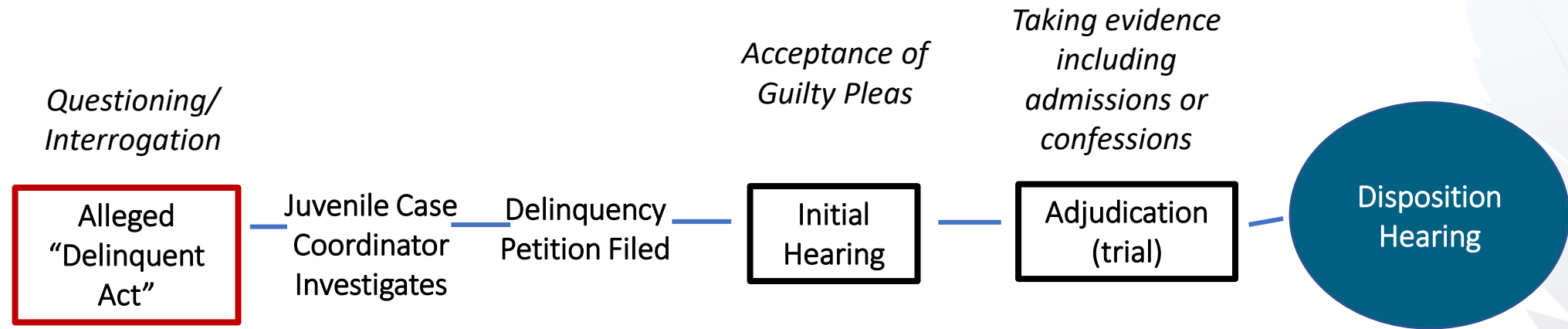
# ▶ USING DATA TO TARGET THE RIGHT YOUTH – WHO IS RIGHT FOR THE JHWC?

To achieve the design goal of meeting the needs of moderate to high risk/need youth, JHWC teams must find reliable answers to the following questions:

1. How many youth come to the attention of the juvenile court in any given time period (Tribal and/or State/County)?
2. What is the nature of their delinquency?
3. Does it appear that substance use is driving their delinquency behavior?
4. How many of those youth have substance abuse issues?
5. What is the nature of those issues?
6. What are the prevalent substances being abused?
7. What are the resources available in the community to address youth with both delinquency and substance abuse (also, mental health and education) issues?

# CHAPTERS 1 (GENERAL PROVISIONS) & 2 (DELINQUENCY) – DELINQUENCY PROCEEDINGS

## MODEL INDIAN JUVENILE CODE (2016 REVISION)



**Delinquent Act** – An act committed by a child that would be a criminal violation of the tribal code if committed by an adult.

Section 1.02.110 (e)

Section	Offenses Against Property
3.8.1.	Burglary
3.8.3.	Trespassing
3.8.4.	Theft
3.8.6.	Criminal Damage to Property
3.8.8.	Burning

Section	Offenses Against Public Peace, Order, Welfare & Administration
3.13.1.	Curfew Violations
3.13.2.	Disorderly Conduct
3.13.3.	Disrupting Meetings, Processions, & Ceremonies
3.13.4.	Disrupting Religious Ceremonies

Section	Controlled Substances & Alcohol Related Offenses
3.15.1.	Use or Possession Offenses
3.15.2.	Bootlegging. Sale, Distribution, Transportation of Alcohol, Marijuana or Controlled Substances
3.15.3.	Production, Cultivation or Manufacturing Offenses
3.15.4.	Intoxication
3.15.5.	Possession of Drug Paraphernalia

## WHAT “TRIGGER OFFENSES/CRIMES” IN YOUR TRIBAL LAW ARE RELEVANT TO YOUR ELIGIBILITY CRITERIA?

Inventory your Tribe’s Juvenile Code AND Criminal Code for:

- “Delinquent Acts”
- “Juvenile Offenses”
- “Crimes”
- “Status Offenses” (not recommended)

Where:

- Substance use is an element of the offense/crime

OR

- Youth tend to be using alcohol or drugs when doing this

**Example:**  
**Hopi Code**  
**Title III – Criminal Code**



## ▶ USING DATA TO TARGET THE RIGHT YOUTH – WHO IS RIGHT FOR THE JHWC? (CONT.)

The answers to these questions will allow the JHWC team to identify the characteristics of youth they wish to target, including those related to:

- Age and gender
- Level of risk to re-offend and continue to abuse drugs/alcohol
- Offense history (e.g., current offenses, past offenses, and chronicity of offending)

AND

- Amenability to substance abuse treatment and other interventions

*All of these questions/answers should be addressed by the team in a strategic planning meeting prior to the acceptance of the first youth into the JHWC*

It is also important for JHWC teams to *revisit their target population and eligibility criteria periodically to reaffirm* that the JHWC continues to reflect the conditions and needs specific to the at-risk youth in their communities.

# TABLE 1 – SOURCES OF DATA

Target Population Characteristics	Sources of Data
Youth Population	U.S. Census School Enrollment Data
Court-Involved Youth	Arrest Data Juvenile Court Data (Delinquency) Juvenile Court Data (Dependency) Risk/Needs Assessment Results State/County Disproportionate Minority Contact Reports
Substance Abuse Among Youth	Arrest Data (Alcohol and Drug Related) Juvenile Court Adjudication and Dispositions (Substance Abuse) Youth Substance Abuse Surveys Public Health Data
Prevention and Intervention Resources	United Way Directories of Community-based Service Providers Juvenile Court-based Interventions Department of Public Welfare (County) Department of Public Welfare (State & Tribal equivalent) Office of Juvenile Justice and Delinquency Prevention (OJJDP) Model Program Guide



## ▶ Polling #3

- A question prefacing the next set of slides will be presented- tell us what you know!
- Input will be anonymous.







## THE PROPOSITION:

Eligibility Criteria should include threshold findings or scores from screening and assessment tools

**This proposition causes us to consider the debate surrounding Risk-Need-Responsivity (RNR) assessment tools**



# JUVENILE DRUG TREATMENT COURT (JDTC) GUIDELINES (CONT.)

Guideline 2.2. *Assess* all program participants *for the risk of reoffending* using a validated instrument



# SUPPORT FOR USING VALIDATED, EVIDENCE-BASED RISK/NEEDS SCREENING AND ASSESSMENT INSTRUMENTS (IN YOUR JHWC PLANNING)

The OJJDP classifies risk/needs assessments as:

- “important tools to help juvenile justice practitioners assess, classify, and treat juvenile offenders”

The results of risk/needs assessment can be applied to case planning and service delivery in the following meaningful ways:

1. They minimize bias in judgments about youths’ risk to public safety and highlight case management service needs
2. They provide a common language between agencies and among professionals
3. They decrease the use of unnecessary intervention (and thus unnecessary costs) of intensive supervision, expensive incarceration, and provision of services for youth who do not need them
4. They improve resource development by providing objective data for tracking primary problem areas of youth; AND
5. In the long run, they may reduce reoffending rates







# THE STRATEGY FOR IDENTIFYING AND TARGETING THE RIGHT YOUTH

## Step One:

Identify the characteristics of the youth you wish to target based on the nature, intent, and design of your JHWC



# HOW THE AMERICAN JUSTICE SYSTEM IDENTIFIES AND SORTS JUVENILES

(the focus is on targeting individuals for successful treatment and supervision, and matching them to assessed needs and risk levels, delivered in the appropriate sequence)

## Low Risk



- Skipping School
- Running Away
- Drinking Underage
- Acting Out
- “Ungovernability”
- “Incorrigibility”
- “Being Beyond the Control of One’s Parents”
- Violating Curfew

## High Risk of Reoffending and High “Criminogenic Need”

### Work, School, Recreational Issues:

- Lack of education
- Chronic unemployment
- Lack of participation in non-criminal leisure activities

### How One Thinks

- Faulty through process (rationalizing crime, blaming the victim or system, substance use/abuse)



### Behavior:

- Aggressiveness
- Cruelty
- Rage
- Argumentativeness
- Defiance of authority

### Personality:

- Lack of empathy
- Criminal identity
- Impulsivity
- Disregard for others
- Aggressiveness
- Excessive risk-taking

### Peers:

- Close associates who present anti-social beliefs and attitudes, who engage in criminal behavior
- Isolation from pro-social influences
- Family issues

# ▶ THE STRATEGY FOR IDENTIFYING AND TARGETING THE RIGHT YOUTH (CONT.)

## Step Two:

Assess and document characteristics of youth in the general population in your community, and particularly the characteristics of juvenile court-involved youth in your jurisdiction (Tribal and/or State)



## TYPICAL “OFFENSES” (ONLY SOME ARE JHWC – ELIGIBLE)

### Person Offenses

- ~~Criminal Homicide~~
- ~~Forcible Rape~~
- ~~Robbery~~
- ~~Aggravated Assault~~
- ~~Simple Assault~~
- Other Violent Sex Offenses
- Other Person Offenses

### Property Offenses

- Burglary
- Larceny-Theft
- Motor Vehicle Theft
- Arson
- Vandalism
- Trespassing
- Stolen Property Offenses
- Other Property Offenses

### ~~Drug Law Violations~~

### Public Order Offenses

- Obstruction of Justice
- Disorderly Conduct
- Weapons Offenses
- Liquor Law Violations
- Nonviolent Sex Offenses
- Other Public Order Offenses

In the last 10 years (2002–2011), the number of cases handled by juvenile courts has decreased for almost all offenses

Most serious offense	Number of cases 2011	Percent change			
		1985–2011	10 year 2002–2011	5 year 2007–2011	1 year 2010–2011
<b>Total delinquency</b>	<b>1,236,200</b>	<b>7%</b>	<b>-26%</b>	<b>-24%</b>	<b>-8%</b>
<b>Total person</b>	<b>317,500</b>	<b>72</b>	<b>-22</b>	<b>-23</b>	<b>-7</b>
Violent Crime Index*	61,500	3	-15	-28	-10
Criminal homicide	900	-26	-40	-39	-14
Forcible rape	5,700	64	-12	-12	1
Robbery	23,200	-8	10	-27	-12
Aggravated assault	31,600	6	-27	-31	-11
Simple assault	221,300	110	-23	-21	-7
Other violent sex offenses	10,800	30	-20	-16	-3
Other person offenses	23,900	119	-24	-30	-7
<b>Total property</b>	<b>447,500</b>	<b>-36</b>	<b>-32</b>	<b>-26</b>	<b>-10</b>
Property Crime Index**	317,500	-39	-32	-21	-10
Burglary	79,800	-44	-28	-23	-8
Larceny-theft	219,700	-34	-29	-17	-10
Motor vehicle theft	12,700	-67	-66	-52	-16
Arson	5,400	-18	-39	-32	-2
Vandalism	70,400	-18	-29	-36	-11
Trespassing	39,300	-26	-27	-29	-10
Stolen property offenses	12,000	-56	-46	-36	-13
Other property offenses	8,200	-55	-59	-43	-11
<b>Drug law violations</b>	<b>152,600</b>	<b>97</b>	<b>-17</b>	<b>-16</b>	<b>-5</b>
<b>Public order offenses</b>	<b>318,600</b>	<b>64</b>	<b>-24</b>	<b>-27</b>	<b>-9</b>
Obstruction of justice	149,700	125	-24	-22	-8
Disorderly conduct	90,200	101	-23	-31	-9
Weapons offenses	26,400	31	-19	-35	-9
Liquor law violations	14,400	-20	-5	-29	-11
Nonviolent sex offenses	11,700	-7	-26	-6	-3
Other public order offenses	26,300	-18	-34	-37	-11

\* Includes criminal homicide, forcible rape, robbery, and aggravated assault.

\*\* Includes burglary, larceny-theft, motor vehicle theft, and arson.

Note: Detail may not add to totals because of rounding. Percent change calculations are based on unrounded numbers.



“American Indian and Alaska Native (AI/AN) young people are almost twice as likely to be petitioned to state court for skipping school, violating liquor laws, and engaging in other behaviors that are only illegal because of their age (often known as status offenses). Once involved with the state court system, they are less likely to be placed on probation and experience higher rates of detention and residential placements.”

-The Coalition on Juvenile Justice and the Tribal Law and Policy Institute, “American Indian/Alaska Native Youth & Status Offense Disparities: A Call For Tribal Initiatives, Coordination & Federal Funding” (2015), citing the National Center for Juvenile Justice, “Juvenile Court Statistics 2011” (July 2014)



# ▶ THE STRATEGY FOR IDENTIFYING AND TARGETING THE RIGHT YOUTH (CONT.)

## Step Three:

Establish strategic eligibility criteria based on the scope and nature of the JHWC and the supervision, treatment, and intervention resources available in the community



# BERNALILLO COUNTY NM JDC REVISED ELIGIBILITY CRITERIA

## Juveniles are eligible for JDC if they:

- 1 Are between the ages 14 to 17 years old at the time of JDC referral
- 2 Have been arrested or convicted of drug offenses or drug related crimes having to do with alcohol or other drugs as defined in the New Mexico Criminal Code and New Mexico Children's Code
- 3 Have non-drug related offenses that were committed while under the influence, or were committed to support addiction or dependency, or are substantially related to the use or abuse of alcohol or drugs
- 4 Have previously been on supervised probation in the past, and are currently failing on probation partly due to continued drug or alcohol use
- 5 *Score moderate to high in both the risk and needs section of the substance abuse section of the Structured Decision Making tool and substance abuse is identified as one of the top three needs*
- 6 Are currently on or will be placed on formal probation supervision for a minimum of one year
- 7 Are actively using drugs or alcohol or they are in the process of being successfully discharged from a substance abuse treatment facility
- 8 Have an IQ of over 70
- 9 Have a history of prior treatment but continue to abuse drugs or alcohol despite interventions
- 10 Have been diagnosed with a severe substance abuse disorder in the past 30 days
- 11 Are ordered to complete the JDC program as a condition of their probation



# THE STRATEGY FOR IDENTIFYING AND TARGETING THE RIGHT YOUTH (CONT.)

## Step Four:

Develop an eligibility criteria checklist to share with key stakeholders (law enforcement, prosecutors/presenting officers, juvenile court judges/magistrates, juvenile court intake, and probation (Tribal and/or State))



# BERNALILLO COUNTY, NM ELIGIBILITY CRITERIA CHECKLIST

	Right Kid	Yes	No
1	Is the child between the ages of 14 & 17?		
2	Has the child been arrested for a drug or alcohol related offense OR does the child have non-drug or alcohol referrals that were motivated by drugs or alcohol?		
3	Has the child been on supervised probation anytime in the past?		
4	Is the child scoring high to moderate on the risk section of the SDM?		
5	Is the child scoring high to moderate on the needs section of the SDM?		
6	Is one of the identified POC needs substance abuse?		

	Right Time	Yes	No
1	Is the child currently on or will they be placed on probation for at least one year?		
2	Has the child used drugs or alcohol in the past 90 days OR are they being successfully discharged from a substance abuse in-patient treatment facility?		



# BERNALILLO COUNTY, NM ELIGIBILITY CRITERIA CHECKLIST CONT.

	Right Program	Yes	No
1	Does the child have an IQ of over 70?		
2	Has the child received substance abuse treatment in the past?		
3	In the past 30 days was the child diagnosed with a severe substance abuse disorder OR is the answer yes to the following four questions?		
3.1	Is the child's substance abuse affecting the child's work, school, or home life?		
3.2	Is the child's substance abuse putting the child's life in danger (i.e., driving drunk)?		
3.2	Is the child's substance abuse negatively affecting the child's decision making?		
3.2	Is the child continuing to use despite the use of graduated sanctions?		



# THE STRATEGY FOR IDENTIFYING AND TARGETING THE RIGHT YOUTH (CONT.)

## Step Five:

Establish recruitment protocol, including a JHWC marketing plan





# RECRUITING

**The JHWC Coordinator may do the following to boost enrollment:**

- Develop informational materials (e.g., program descriptions, brochures, presentations) that describe the scope and nature of the JHWC, as well as its benefits to youth, family, community, and system partners
- Provide informational materials and in-service training to key system partners
- Develop and disseminate an eligibility checklist to assist potential referral agents (e.g., law enforcement, judges, juvenile court intake, detention staff, and probation officers) in identifying and referring appropriate JHWC candidates

AND

- Collect performance data and report outcomes to key system partners to increase confidence in the quality and efficacy of the JHWC





# FEDERAL DEFINITION OF “VIOLENT OFFENDER”

Per 34 U.S.C. 10612, any drug treatment court that receives funds under this program may not permit participation by *violent offenders*.

For the purposes of this solicitation, *the term “violent offender”* includes a juvenile who has been convicted of or adjudicated delinquent for a felony-level offense that:

- (1) has as an element the use, attempted use, or threatened use of physical force against the person or property of another,
- (2) the possession or use of a firearm, or
- (3) by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense. 34 U.S.C. 10613.

Funding will be immediately suspended if DOJ determines that violent offenders are participating in any program funded under this solicitation.

# EXAMPLES OF COMMONLY ADMINISTERED RISK ASSESSMENT TOOLS

## Risk of General Recidivism, Technical Violations, and/or Failure on Community Supervision

- Correctional Offender Management Profiling for Alternative Sanctions (COMPAS)
- Federal Post Conviction Risk Assessment (PCRA)
- Inventory of Offender Risk, Needs, and Strengths (IORNS)
- Level of Service/Case Management Inventory (LS/CMI)
- Level of Service Inventory-Revised (LSI-R)
- Offender Profile Index (OPI)
- Offender Screening Tool (OST)
- Ohio Risk Assessment System (ORAS)
- Risk and Needs Triage (RANT)
- Risk Prediction Index (RPI)
- Static Risk and Offender Needs Guide (STRONG)
- Wisconsin Risk and Need Assessment Scale (WRN)

Taken from Douglas B. Marlowe's, "The Most Carefully Studied, Yet Least Understood Terms in the Criminal Justice Lexicon: Risk, Need, and Responsivity" (2018). Available at: <https://www.prainc.com/risk-need-responsivity/>

# ▶ EXAMPLES OF COMMONLY ADMINISTERED RISK ASSESSMENT TOOLS (CONT.)

## Risk of Violence or Dangerousness:

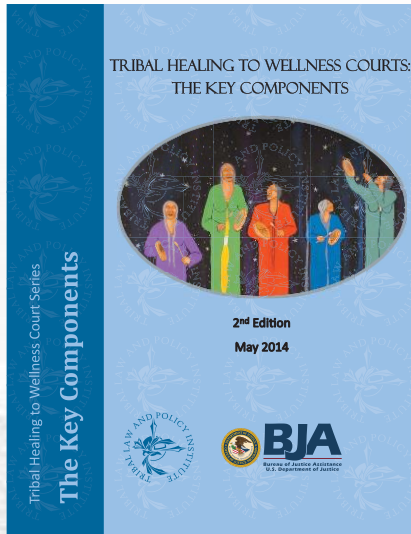
- COMPAS – Risk of Violence Scale
- Historical, Clinical, Risk Assessment-20 (HCR-20)
- Ontario Domestic Assault Risk Assessment (ODARA)
- Psychopathy Checklist- Revised (PCL-R)
- Sexual Violence Risk-20 (SVR-20)
- Spousal Assault Risk Assessment (SARA)
- Static-99
- Violence Risk Appraisal Guide-Revised (VRAG-R)

Taken from Douglas B. Marlowe's, "The Most Carefully Studied, Yet Least Understood Terms in the Criminal Justice Lexicon: Risk, Need, and Responsivity" (2018). Available at:

<https://www.prainc.com/risk-need-responsivity/>

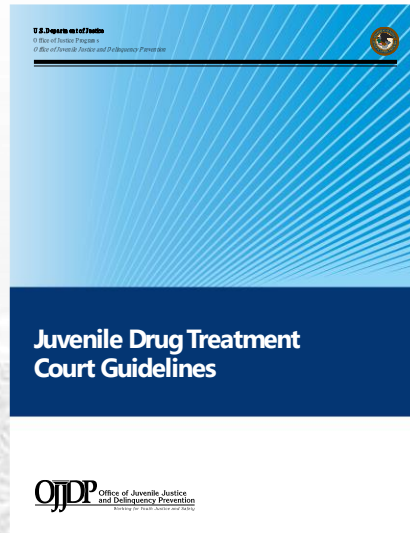


# JHWC KEY COMPONENTS, GUIDELINES, & RESOURCES



The Tribal Healing to Wellness Court Key Components

Available at:  
<https://www.home.tpi.org/tribal-healing-to-wellness-courts>



The Juvenile Drug Treatment Court Guidelines

Available at:  
<https://ojjdp.ojp.gov/programs/juvenile-drug-treatment-court-guidelines>



The Right Youth for Your Juvenile Drug Court

Available at:  
<https://www.ncjfcj.org/publications/the-right-youth-for-your-juvenile-drug-court/>

THE MOST CAREFULLY STUDIED, YET LEAST UNDERSTOOD, TERMS IN THE CRIMINAL JUSTICE LEXICON: RISK, NEED, AND RESPONSIVITY

JULY 17, 2018

By Douglas B. Marlowe, JD, PhD, National Association of Drug Court Professionals

Risk, Need, and Responsivity

Available at:  
<https://www.prainc.com/risk-need-responsivity/>





# CONTINUE TODAY'S DISCUSSION IN THE GRANTEE PORTAL FORUM!

- OJJDP Tribal Grantees are invited to continue discussing the topics covered in today's online learning event in the Grantee Portal forum
- To access the forum, sign into the Grantee Portal ([www.tribalyouth.org/grantee-login](http://www.tribalyouth.org/grantee-login)) and click "Forum" in the navigation bar
- Email [TribalYouth@TLPI.org](mailto:TribalYouth@TLPI.org) with any questions about how to access the Grantee Portal forum
- *What is the Grantee Portal?* The Grantee Portal is a new centralized resource hub on the TYRC website where OJJDP Tribal grantees can build relationship with other programs funded by OJJDP and access a wide variety of materials to support the planning, implementation, and sustainability of your grants. All points of contact with OJJDP Tribal Grantees have an account.

## EVALUATION

- Provides overall opinion for content improvement
- Tells us how we did as presenters
- Anonymous





# CONNECT WITH US!



**Tribal Youth Resource Center**

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**CLOSING AND  
THANK YOU!**

