The Justice System and Young Adults With Substance Use Disorders
Selen Siringil Perker, LLM, Lael E. H. Chester, JD

Young adults’ heightened vulnerability to substance use disorders (SUD) corresponds with their disproportionate representation in the criminal justice system. It is paramount that the justice system systemically recognize young adults as a group with distinct developmental needs and align reform efforts with advancements made in medical and public health fields to better address the needs of justice-involved young adults with SUD. This article warns against reliance on the justice system for engaging young adults with SUD in treatment and presents 4 principles that were developed by a workgroup participating in a longitudinal meeting of experts sponsored by Boston Medical Center’s Grayken Center for Addiction. The goal of the principles is to support and guide policy and practice initiatives for developmentally appropriate justice responses to young adults with SUD. The article also reviews the evidence that underlies these principles and offers policy and practice considerations for their implementation.
Young adults, individuals 18 to 25 years of age also defined as emerging adults, are at the epicenter of both the current drug epidemic and mass incarceration crisis. Young adults suffer the highest prevalence of illicit drug use of any age group\(^1\), they are overrepresented in the criminal justice system and experience the worst justice outcomes of all age groups. Although young adults comprise 10% of the US population, in 2015 they constituted 26% of arrests\(^3\) and 20% of adult incarcerations.\(^4\) Each day, an estimated 170,000 young adults are incarcerated in adult correctional facilities.\(^5\) Three out of four of these individuals will be rearrested within 3 years of release.\(^7\)

The overlap between heightened vulnerability of young adults to substance use disorders (SUD) and their disproportionate representation in the criminal justice system is not coincidental. Human brain development does not reliably reach adult levels of functioning until well into the third decade of life.\(^9\) Hallmarks of this development include risk taking, experimentation, and a diminished future orientation.\(^10\) Young adults tend to choose immediate, smaller rewards over future, larger ones.\(^12\) Young adults are particularly volatile in emotionally charged settings, especially with their peers.\(^13\) For some, this stage also marks the onset of mental health problems, self-medicating, or experimenting with substances. Heavy drinking and drug use during adolescence and young adulthood, in turn, adversely affect development of the brain and increase impulsivity.\(^14\) Young adults experience violent victimization and emotional and physical trauma at higher rates than any other population.\(^17\) Each of these risk factors is associated with involvement in the justice system.

Young adulthood, however, is also a time for opportunity. Most young adults mature and age out of crime as their cognitive skills develop, responsibility and independence grow, and social ties strengthen through education, stable employment, and committed relationships.\(^19\) - \(^21\) Unfortunately for most young adults involved in the justice system, these opportunities may never exist and the criminal justice system further limits their prospects to reach these key developmental milestones. An adult criminal record creates barriers to reentry, such as diminished access to workforce, higher education, and safe housing. These collateral effects are amplified for young adults, especially poor, young men of color, who face the worst disparities in the justice system.\(^22\) - \(^23\) In fact, the United States’ experiment of a punitive, justice-focused model for addressing SUDs has produced discriminatory outcomes, widening racial and ethnic inequities.\(^24\)

Fortunately, many areas of public policy, including public health, increasingly recognize young adulthood as a distinct developmental stage, leading to laws and policies specifically designed to protect this age group from harmful behavior. Policy discussions around the country are now focusing on reforming the justice system so that it recognizes the distinct developmental needs of young adults. In this article we present the 4 principles that were developed by an expert workgroup participating in a longitudinal meeting sponsored by Boston Medical Center’s Grayken Center for Addiction. The intent of these principles is to support and guide policy considerations for developmentally appropriate justice responses to young adults with SUDs. The recommendations in this article are not American Academy of Pediatrics policy, and publication herein does not imply endorsement. We summarize the evidence underlying each principle, and share practice and policy considerations, including potential obstacles to implementation and action steps to inform key stakeholders.

**PRINCIPLES OF CARE**

**Principle 1: To the Extent Possible, Young Adults With SUDs Should Be Diverted From the Criminal Justice System to Effective Care**

**Guidance**

The workgroup acknowledged that SUDs are the entryway to the criminal justice system for a significant number of young adults, yet SUD treatment is most effective when provided to youth in their own communities, before involvement with the justice system. Diversion refers to a broad category of justice initiatives that deflects individuals away from the formal justice system into community services at key junctures of the criminal procedure, starting from prearrest police diversion to latter alternatives to sentencing.

**Evidence**

Nationwide, drug abuse violation is the leading cause of arrests for young adults.\(^2\) In 2017, drug abuse violations represented 22% of all arrests for 18- to 20-year-olds in the United States and 19% for 21- to 24-year-olds.\(^25\) Although the total number of arrests of young adults has decreased substantially since 1990, greater numbers of young adults are being arrested for drug abuse violations today. The ratio of arrests for drug abuse violations to total arrests in this age group has risen from 8% in 1990 to 20% in 2017. Of all drug-related violations, possession is the most frequent, accounting for 85% of all drug-related arrests of young adults.\(^26\)

These numbers underestimate the actual role of substances in criminal justice involvement for young adults since history of substance use is common among those sentenced for
other types of offenses.\textsuperscript{27,28} One study found that 85% of all incarcerated individuals are substance-involved.\textsuperscript{29}

Young adults arrested for drug abuse violations or other infringements with underlying SUD enter an adult criminal justice system cycle that starts with booking, and progresses possibly through detention, prosecution, conviction, and sentencing, including the possibility of community supervision or incarceration. This punitive approach to individuals with SUDs, however, neither reduces crime nor saves lives.\textsuperscript{30} Police interactions can cause more trauma and harm to youth that already suffer from increased rates of victimization and view law enforcement with suspicion and distrust.\textsuperscript{31} Interventions that rely on enforcement with suspicion and victimization and view law already suffer from increased rates of inequities.\textsuperscript{24} Black individuals are incarcerated on drug charges at a rate 10 times greater than white individuals despite similar rates of drug use.\textsuperscript{32}

Individuals with SUDs who are released from incarceration are more likely to recidivate and return to prison than other incarcerated persons: Nationwide, >50% of incarcerated persons who are drug-dependent have previously been incarcerated, compared with 31% of other incarcerated persons.\textsuperscript{30} Formerly incarcerated persons are at a strikingly higher risk for death from drug overdose than the general population and formerly incarcerated emerging adults have the highest mortality rate of all.\textsuperscript{33,34}

Similarly, outcomes of individuals sentenced to probation, the most frequently used sentence in criminal court, are poor. Nationally, \textasciitilde40% of those who are sentenced to probation have had their probation revoked.\textsuperscript{35} Probation typically requires persons to adhere to a number of conditions, such as being drug-free, attending counseling sessions, and reporting regularly to probation officers. Recently, these conditions have increased in number.\textsuperscript{36} For young adults under probation that suffer from SUD – and who typically have not completed their formal education, do not have stable employment, or lack other support systems – high rates of relapse and technical violation of other probation conditions are common.\textsuperscript{37} In part because of the growth in the probation population, most probation agencies lack resources to deflect people who technically violate their probation conditions to drug treatment, behavioral therapy, or employment programs. Instead, agencies default to formal violation processes, which often result in incarceration.\textsuperscript{35} For young adults, this means being subject to the toxic environment of adult prisons, cutoff from family and community supports, and carrying a lifelong criminal record.

Therefore, prearrest diversion of young adults with SUDs from the formal criminal justice system is important. A number of programs, such as Law Enforcement Assisted Diversion and the Police Assisted Addiction and Recovery Initiative (PAARI), have shown promising outcomes for diversion of adults with SUDs to effective treatment across the country.\textsuperscript{38} In a Law Enforcement Assisted Diversion program, which started in King County, Washington, in 2011 and has been replicated in several other jurisdictions, police officers exercise discretionary authority to divert individuals to community-based programs for law violations driven by underlying behavioral and mental health needs.\textsuperscript{39} These programs offer a range of services that provide life skills, employment opportunities, drug treatment, housing, and educational programs as an alternative to formal involvement with the criminal justice system. The Angel Project and PAARI (Gloucester, MA, 2015) help police implement prearrest programs that connect individuals with opioid addiction to treatment. Communities that have joined PAARI have observed as much as a 25% reduction in crimes associated with addiction.\textsuperscript{40}

\textbf{Policy and Practice Considerations}

A number of obstacles persist for prearrest diversion of young adults. As a distinct age group, young adults pose specific challenges for engagement in addiction treatment. There is a lack of sufficient, developmentally appropriate, culturally responsive, and evidence-based addiction treatment services for young adults in most communities across the United States. Only 1 out of 3 young adults with opioid addiction receive medications to prevent a return to drug use.\textsuperscript{41} Youth of color and women are significantly less likely than others to be prescribed the appropriate medications.\textsuperscript{42} In the absence of effective nonpunitive alternatives for young adults, the recourse to formal criminal justice system for treatment often prevails. Additionally, SUD frequently intersects with behavioral and mental health problems, trauma and victimization, and lack of adequate social support systems. Lack of cross-agency collaboration between addiction and mental health professionals and social support systems constitutes a significant challenge for sustained recovery of young adults from SUD.

The expert panel identified a number of actions that could be taken to address these obstacles. First, the panel highlighted the need for creating developmentally appropriate, culturally sensitive, and engaging (as opposed to coerced) addiction treatment programs for young adults in their communities and facilitating early intervention before involvement with the justice system. This should include developing alternative engagement.
strategies, such as wider use of mentoring and peer support. Second, stigma about medication-assisted treatment (MAT) should be overcome and MAT within primary-care pediatric setting should be provided. Increasing awareness about SUDs and treatment programs in schools, and facilitating school-based referrals to treatment programs in communities are important to address SUD before a young adult gets involved in the justice system. Third, collaboration between addiction, mental health professionals and social support systems should be strengthened for a holistic approach to treatment of SUDs of young adults. These programs should be “trauma-healing” in addition to being trauma-informed. Finally, police referrals of young adults with SUDs to community-based treatment programs should be enhanced through adaptation of promising prearrest diversion models to the distinct needs of young adults and through deliberate design and evaluation to reverse and prevent systemic racial inequities in the justice system. These diversion models should be promoted in new hire training and continuing education of law enforcement officers. A wider array of other diversion opportunities after arrest and throughout the criminal justice process should be provided to respond to justice-involved young adults with SUDs.

**Principle 2: Young Adults Who Have SUDs and Are Subject to the Formal Justice System Should Have Access to the Full Range of Developmentally Appropriate, High Quality Addiction Treatment Modalities During System Involvement, Particularly During Incarceration and Reentry Processes**

**Guidance**

Young adults with SUDs face 2 major obstacles after being involved in formal justice system: (1) justice systems across the country do not systemically recognize young adults as a developmentally distinct group. Young adults are thus treated as older adults without developmentally appropriate services; (2) existing addiction treatment programs in the adult criminal justice system are insufficient to address SUDs across all age groups, but even more so for young adults. Both obstacles need to be addressed simultaneously.

**Evidence**

Historically, the age of demarcation between the juvenile and adult justice systems has differed across the United States. Today, the majority of states set the legal marker at a person’s 18th birthday. Adult jails and prisons, however, are not equipped to provide developmentally appropriate health care and addiction treatment to young adults.

Evidence suggests that existing addiction treatment programs in the adult criminal justice system are insufficient to address SUDs for all age groups. Only 10% of incarcerated individuals receive addiction treatment and most incarcerated persons who could benefit from treatment do not receive it. Of those who receive treatment, evidence suggests no significant reduction in risk of fatal overdose after release. Most US correctional facilities do not continue or initiate MAT, or they provide only detoxification or a subset of US Food and Drug Administration–approved MAT (eg, only methadone or buprenorphine). In addition, existing treatment programs often lack quality metrics, are not standardized, and vary in content and quality. Evidence from a pilot study in Rhode Island suggests that SUD treatment programs offering all 3 US Food and Drug Administration–approved medications (methadone, buprenorphine, and naltrexone) during incarceration significantly reduce postrelease overdose deaths. A national study of SUD treatment models in justice settings is currently underway with support from the National Institutes of Health. Challenges remain, however, in tailoring addiction and mental health programs in the justice system to the distinct needs of young adults.

In this context, a flurry of legislative and policy initiatives has emerged across the United States for young adult justice reform recently. One systemic reform is the expansion of juvenile jurisdiction to include some young adults. In 2018, Vermont enacted a law that gradually raised the upper age of juvenile jurisdiction to a person’s 20th birthday by 2022. A growing number of other states (eg, MA, IL, and CA) are considering similar proposals. Extending juvenile alternatives to young adults means providing them with individualized rehabilitative services, including developmentally appropriate behavioral health services, addiction treatment, vocational training, and confidentiality protections. Other countries have been successfully implementing such measures for years.

Jurisdictions across the country have also been considering and implementing other, more localized policy initiatives for responding to justice-involved young adults, such as specialized courts, specialized probation caseloads, and specialized correctional units, and the expansion of hybrid systems (which merge elements of both the juvenile and adult criminal justice systems). One such initiative that targets system-involved youth with SUDs is specialized drug courts. In 2013, Massachusetts established 5 intensive supervision programs to serve justice-involved young adults, ages 18 to 33, with SUDs. These programs involve up to 3 weeks of daily intensive outpatient treatment of addiction, followed by regular meetings with the judge and a team of case managers for individual and group counseling, and provision of employment, education, and health
Insurance support. An evaluation of these intensive supervision programs is pending.

Juvenile justice systems have been experimenting with developmentally appropriate SUD treatment frameworks in ways not provided in the adult systems. Multisystemic Therapy—Emerging Adults, an innovative adaptation of standard multisystemic therapy for adolescents to emerging adults with a serious mental illness and justice involvement, has been piloted with promising outcomes in reducing both substance use and recidivism.

Some jurisdictions have launched initiatives for young adults that build on the successes of mentoring interventions for children and adolescents. For example, the Arches Transformative Mentoring program (Arches) of New York City’s Department of Probation, a group mentoring program serving young adult probation clients ages 16 to 24, is based on the idea that “credible messengers,” people with backgrounds similar to those of their mentees, often including previous criminal justice system involvement, are best positioned to engage the young adults who are hardest to reach. In addition to mentoring, the curriculum of Arches includes evidence-based interventions, such as interactive journaling, that help clients identify the link between their substance dependence and law-breaking activities and enable them seek voluntary treatment. An impact evaluation of Arches program showed significant reductions in recidivism rates of its participants.

Finally, some states (eg, MA, CT, MD) have established specialized divisions within their departments of public health to focus specifically on young adult mental health and substance abuse. Justice systems can use the experience of such divisions by working closely with them to respond to system-involved young adults more effectively.

Policy and Practice Considerations

To provide young adults with SUDs the full range of developmentally appropriate addiction treatment modalities during justice system involvement, the expert panel urged policy makers to leverage the experience of the juvenile justice system. These include extending juvenile justice measures to young adults by raising the age of juvenile justice jurisdiction and adapting intervention models for younger youth to young adults. The justice system should also provide comprehensive access to pharmacotherapy for addiction treatment during incarceration and immediately after release. The expert panel highlighted the importance of establishing quality metrics for young adult treatment programs during justice involvement and reentry processes, and regularly monitoring the quality, frequency, availability, duration, and outcomes of treatment.

Principle 3: The Justice System Should Provide Resources Dedicated to Supporting the Safe Transition of Young Adults From a Period of Incarceration Back to Their Communities

Guidance

Overdose fatality rates among young adults are the highest of all age groups immediately after release from incarceration. Public safety outcomes are also worst for young adults with SUDs after release from incarceration. This highlights the importance of developmentally appropriate substance use treatment services during the transition of young adults from incarceration to their communities.

Evidence

Drug overdose is the leading cause of death for formerly incarcerated individuals. A study in the United States found, for example, that the risk of death from drug overdose of individuals recently released from prison was 129 times higher than the general adult population. Notably, the risk of opioid-related death for young adults after release from incarceration is significantly higher than it is for older adults.

Public safety outcomes after release of incarcerated individuals with SUDs are equally poor. In 2018, technical violations of parole and probation, such as failing drug tests, accounted for nearly a quarter of state prison admissions of all ages. Three-quarters of both incarcerated young adults and individuals imprisoned for a drug-related offense are arrested for a new crime within 5 years of release. A 2002 study of recidivism in 15 states found that 22% of 18- to 24-year-olds released from incarceration returned to prison within 3 years for technical violations of parole, such as a failed drug test. A recent study on the effects of imprisonment on future prison admission found that postprison parole supervision increases the probability of imprisonment, primarily through the process of technical violations and that substance use was included in 50% of such technical violations.

Providing a continuum of care after release and comprehensive prerelease planning for young adults, thus, hold promise to save lives and increase public safety. Closer community-based partnerships between providers and justice agencies can increase the number of services for those released from incarceration and at high risk of violating parole. The Parole Restoration Project (PRP) of the state of New York is one example of such successful community partnerships. Launched in 2001, the project’s aim was to reduce length of stay for persons detained on Rikers Island for technical parole violations with a focus on people with SUD or mental illness. PRP works closely with the...
that justice systems provide comprehensive discharge planning, including a continuum of health care, addiction treatment, access to health insurance (Medicaid), education and employment services, and stable housing in close partnership with community-based providers. Justice officials should turn to developmentally appropriate, community-based SUD treatment, cognitive behavioral therapy, education or employment programs in cases of relapse in lieu of formal probation/parole violation process and incarceration.

**Principle 4: The Justice System Must Reduce the Harm Caused by Criminal Records That Create Insurmountable Barriers to Young Adults’ Full and Healthy Community Engagement and Their Sustained Recovery From SUDs**

**Guidance**

The effects of a criminal record on the life of a young adult are pervasive. A criminal record creates barriers to housing, employment, and civic engagement – each critical for a justice-involved young adult’s sustained recovery. The expert panel praised efforts to reduce such collateral consequences by expunging criminal records, especially of drug-related offenses, and providing young adults with protections and services offered in juvenile/youth justice systems, such as confidentiality of proceedings and adjudication of delinquency (guilty disposition in juvenile system) rather than an adult criminal conviction.

**Evidence**

The American Bar Association has cataloged >45,000 civil restrictions imposed by federal and state statutes and regulations as a result of adult convictions.69 Despite being associated with convictions and felony offenses, important collateral consequences on a person’s social and economic future can be triggered by even a simple interaction with the criminal justice system, such as arrest for a misdemeanor.70 An adult criminal record diminishes an individual’s prospects of steady employment and higher education, restricts civic engagement, and limits access to adequate housing and public assistance.71 Since these factors are critical to addiction recovery, a healthy transition to adulthood, and desistence from crime, denying young adults public benefits places them at a greater risk of relapse and recidivism. These effects also disproportionately affect youth of color, deepening intergenerational poverty and racial inequities.72

Hiring experiments show that a felony conviction reduces the positive callback rate by nearly two-thirds for Black male applicants, and by half for white male applicants.73 Such racially discriminatory effects on future job prospects is amplified for young adults. Young men of color face higher levels of detachment from mainstream institutions compared with their white peers.22 In 2017, the percentage of Black males ages 18 to 19 that were out of school and unemployed was 31%, 2.5 times higher than their white peers.74 Early evidence suggests that the coronavirus disease 2019 pandemic will exacerbate these inequities.75 Of particular importance to young adults with SUDs, researchers in a survey of college admissions officials found that >90% viewed any felony conviction as particularly negative, and >75% felt the same way about any drug or alcohol offense.76 Furthermore, young adults with adult criminal records may be subject to long periods of ineligibility for federal financial aid. For example, applicants with 2 drug possession convictions or 1 drug sales conviction can apply for federal funding only after 2 years from the date of the most recent conviction.77 A National Poverty Center study found that students of color were more likely to
need such federal grants, but also more likely to be convicted of a disqualifying drug offense.

Since 1987, US federal housing policy has restricted people convicted for a felony, or any violent or drug-related crime, from receiving subsidized housing benefits. Furthermore, the 1996 “1 strike and you’re out” policy provided a legal basis to evict all members of a household of a person who is convicted of a drug-related crime. In the private market, similar barriers to adequate and safe housing exist for those with a criminal record. According to a survey from 2005, 80% of members of 1 major professional association for rental housing screen applicants for criminal records. By the same token, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 imposes a lifetime ban on public assistance, such as the Supplemental Nutrition Assistance Program and Temporary Assistance to Needy Families Program, for those with felony convictions for the illegal possession, use, or distribution of drugs. A 2017 article found that people convicted of a felony drug offense and with full access to public welfare benefits are 10% less likely to return to prison within a year after release. Denial of benefits may, thus, have the unintended consequence of increasing recidivism.

Policy and Practice Considerations

Eliminating collateral consequences of adult justice system involvement for young adults with SUDs is an area ripe for policy innovation. Raising the upper age of juvenile jurisdiction comes to the forefront of such reform initiatives. Including young adults in youth/juvenile justice systems holds the promise to not only ensure their access to developmentally appropriate, rehabilitative SUD treatment while incarcerated, but also to protect them from lifelong harmful effects of an adult criminal record. The juvenile justice system accords protective measures, such as confidentiality of proceedings and a different disposition of court proceedings – an “adjudication of delinquency” rather than a conviction when a youth is found guilty of the alleged offense – which provide some important legal protections. Some states also provide a greater opportunity for juvenile records to be sealed or expunged than adult criminal records.

Policy makers should consider extending deferred adjudication and expungement of criminal records to young adults. It is essential that processes for expunging criminal records are not made onerous. The experience in many jurisdictions across the United States shows that tedious procedural requirements for expunging drug-related criminal records marginalize emerging adults that often lack the resources, knowledge, and confidence to navigate the legal system. Finally, current national policy discussions for alleviating blanket, lifelong collateral consequences of adult conviction are encouraging for efforts to ensure that young adults with SUDs continue to have access to services and resources that are essential to their sustained recovery.

CONCLUSIONS

Recent reform efforts to tailor justice responses to the needs of young adults, especially of those with SUDs, are welcome developments. Yet more progress needs to be made. It is paramount that the justice system systemically recognize young adulthood as a distinct developmental stage and opt for less punitive measures that align with developments in the public health and medical fields. Young adults with SUDs should be diverted from formal justice systems to community-based SUD treatment whenever possible. Policy makers and practitioners should leverage the experience of the juvenile justice systems to provide young adults under their care with developmentally appropriate SUD treatment modalities, including but not limited to exploring the option of raising the upper age of juvenile justice jurisdiction, adapting treatment programs for younger youth to young adults, and providing access to the full range of pharmacotherapy during incarceration and immediately after release. Community-based partnerships between providers and justice agencies and interagency collaboration should be enhanced to support the safe transition of young adults from incarceration to their communities. Finally, justice systems must remove barriers to housing, employment, and other critical supports and means of community engagement as a result of adult criminal records and provide young adults with legal protections offered in youth justice systems against such collateral consequences.

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ABBREVIATIONS

| MAT: medication-assisted treatment |
| PAARI: Police Assisted Addiction and Recovery Initiative |
| PRP: Parole Restoration Project |
| SUD: substance use disorder |

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