

# An Equity and Inclusion State of Mind

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A Statewide Approach to Addressing Racial  
and Ethnic Disparities in Treatment Courts

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# Introduction

## Background

The criminal legal system has a long, well-documented history of racial disparities and mistreatment of minoritized racial and ethnic groups. Treatment courts are a part of this same system and unfortunately, have not been exempt from racial and ethnic disparities in its programs. Research has shown that disparities exist regarding program access ([Ho et al., 2018](#)) and completion ([Gallagher et al., 2023](#)) for minoritized individuals. Given the disparities that are present in some treatment courts, the Adult Drug Court Best Practice Standards include a section on Equity and Inclusion, which encourages courts to monitor equivalent access, retention, treatment services, sanctions and incentives, and dispositions ([National Association of Drug Court Professionals, 2018](#)). It is important for courts to detect disparities and then to implement remedies. When racial and ethnic disparities (RED) are rectified in treatment courts, minoritized participants should have better access to programs, higher graduation rates, and increases in their levels of program satisfaction. As a racial reckoning was happening in the United States (US) during mid-year 2020 following the death of George Floyd, teams at American University (AU) and the Center for Justice Innovation (the Center) joined forces to begin assisting treatment courts within several states in tackling RED.

## Racial and Ethnic Disparities Program Assessment Tool

Hearing a call from the field to eliminate disparities in treatment courts, faculty and staff from AU along with subject matter experts convened to create the [Racial and Ethnic Disparities Program Assessment Tool](#) (RED tool), which was subsequently released in 2019. The RED tool helps treatment court professionals identify and examine areas where RED may exist in their programs and policies. There are a series of open and closed-ended questions on eight sections:

1. Court Information,
2. Intake,
3. Assessments,
4. Demographics,
5. Team Members,
6. Training,
7. Drugs/Treatment/Support Services, and
8. Evaluation and Monitoring.

Using a scoring rubric and algorithm, the RED tool provides treatment courts with an overall score, scores for seven out of eight sections, and recommendations on alleviating racial and ethnic disparities. The tool is a method for courts to proactively research and address RED in court programs and is a resource to assist in adherence to the Equity and Inclusion Adult Drug Court Best Practice Standard.

## Who We Are

### American University

Since 1989, faculty and staff in the School of Public Affairs at American University (AU) have conducted technical assistance, research, training, and evaluation projects for local and state governments, federal agencies, and international organizations. Through research, policy development, and training and technical assistance, AU is committed to providing leadership in the criminal legal system and building capacity to address emerging issues that allow for innovation. Currently, faculty and staff at AU are leading several initiatives related to identifying and rectifying racial and ethnic disparities (RED) in treatment courts. AU is dedicated to creating a culture where everyone feels empowered, heard, and valued.

### Center for Justice Innovation

The Center for Justice Innovation (the Center) promotes new thinking about how the justice system can respond more effectively to issues like substance use, intimate partner violence, mental illness, and juvenile delinquency. The Center achieves its mission through a combination of operating programs, original research, and expert assistance. For over two decades, the organization has been intensively engaged in designing and implementing problem-solving courts, and each year, it responds to hundreds of requests for training and technical assistance and hosts hundreds more visitors at its operating programs. Its staff includes former prosecutors, defense counsel, probation officials, senior administrators of major criminal justice agencies, social workers, technology experts, researchers, victim advocates, and mediators. Under the Bureau of Justice Assistance's (BJA) Statewide Adult Drug Court Training and Technical Assistance Program, the Center provides training and technical assistance to statewide treatment court systems, helping state-level treatment court coordinators and other officials enhance the operation of drug courts and other treatment courts throughout their state.

# American University's and the Center's RED Statewide Collaboration

American University and the Center partnered to deploy the RED tool and a multi-phase strategic planning implementation model to address RED in treatment courts. The partnership began in 2020. Below is a snapshot of how RED statewide efforts are typically structured and executed.

- 1. Pre-tool engagement**

AU and the Center engage with statewide treatment court administrators to inform them of the statewide initiative. Once a state agrees to engage, the statewide treatment court administrator notifies treatment courts in the state about the statewide RED project and schedules an introductory webinar.
- 2. Introductory webinar**

A live webinar for treatment court practitioners is held to discuss the usability and functionality of the RED tool, future training and technical assistance (TTA) opportunities, and to answer questions. After the webinar, the statewide treatment court administrator gives AU a list of courts that voluntarily signed up, along with a court point-of-contact. Statewide administrators do not get access individual court data. AU follows strict Institutional Review Board (IRB) protocols and only shares aggregate statewide data.
- 3. RED Tool completion**

Courts have about a month to complete the tool. Once a court completes the tool, a “local report” with recommendations is generated to alleviate RED based on specific program data.
- 4. Data aggregation and statewide report preparation**

Using courts’ submitted responses to the tool, AU aggregates and analyzes the data, and creates a statewide data report. The Center then produces statewide policy recommendations based on the aggregated data and the analysis. The recommendations are added to the statewide data report and then shared with court personnel.
- 5. Refining the report**

AU and the Center meet with court administrators to review the report, answer questions, and discuss next steps.
- 6. Carrying out the recommendations**

The Center provides training and technical assistance and works with the statewide court administrators to carry out the recommendations from the report. This may include facilitation of a series of statewide RED trainings including sessions comprised of modules on the history of racial and ethnic disparities and drugs in the criminal legal system and

the impact on treatment courts, cultural awareness, humility and responsiveness, and statewide RED data collection, analysis, and performance measures.

**7. Decision points workshop**

Finally, the Center holds an action planning workshop where Center staff and treatment court practitioners identify decision points within treatment court operations that affect racial and ethnic disparities. Center staff use the Adult Drug Court Best Practice Standards to pinpoint operational interventions that reduce RED. This workshop results in a practitioner friendly action plan that can be implemented by local and state level practitioners.

## Methods

Between 2020 and 2023, five states participated in a statewide RED initiative. There were 137 jurisdictions that completed the RED assessment tool from the five states over the past three years. Those states and local treatment courts engaged in the RED project methodology listed above. Each state prioritized the report's recommendation and developed a training and technical assistance plan to implement change at a statewide level.

# Key Results and Policy Recommendations

## A Variety of Treatment Courts Completed the RED Tool

Any treatment court type can utilize the RED tool, however, many of the components of the assessment were structured around the Adult Drug Court Best Practices. In this project, nine types of treatment courts completed the RED tool. Unsurprisingly, the most common court type was adult drug court

(57%). On the other hand, co-occurring disorder court was the least frequent court type (less than 1%). The team at AU is working on adding additional tracks (Family Treatment Court, Juvenile Drug Treatment Court, and Mental Health Court) to the tool which will include treatment court type specific questions. With the addition of the new tracks, there is an expectation that there will be an uptick in assessments being completed by these court types. Figure 1 provides a completion break down by court type.

**RED TOOL COMPLETION BY COURT TYPE**

COURT TYPE	FREQUENCY	PERCENTAGE
Adult Drug Court	79	57.66%
Adult Hybrid Drug/DUI Court	8	5.84%
Co-occurring Disorder Court	1	0.73%
DUI/DWI Court	6	4.38%
Family Drug Court	8	5.84%
Juvenile Drug Treatment Court	2	1.46%
Mental Health Court	17	12.41%
Veterans Treatment Court	10	7.30%
Other	6	4.38%
<b>Total</b>	<b>137</b>	<b>100%</b>

**FIGURE 1**



## Include Racial and Ethnic Equity Language in Court Documents

For many treatment courts, there are several documents that outline the program’s goals, structure, and operations. The language utilized in these documents matter and have implications for everyone involved in the program. As a result, we wanted to investigate to what extent treatment courts include language about racial and ethnic equity in its documents. After conducting our analysis, we found that less than half (48%) of courts reported discussing racial and ethnic equity in policy and procedure manuals. It was less common for courts to include language about racial and ethnic equity in its written participant handbooks (28%) and mission

statements (16%). Treatment court teams can demonstrate their commitment to racial and ethnic equity through these materials, so that participants can see that the court is committed to creating an equitable and inclusive environment. Figure 2 illustrates the prevalence of courts including racial and ethnic equity in their operational documents.

### RECOMMENDATION

*Statewide administrators can craft statewide racial equity mission and vision statements in collaboration with local stakeholders. Local courts can include this language in policy and procedure manuals, local communications with stakeholders, community partners, and marketing materials. This language can also be added to each treatment court’s website and participant handbook.*

### TREATMENT COURT DOCUMENTS

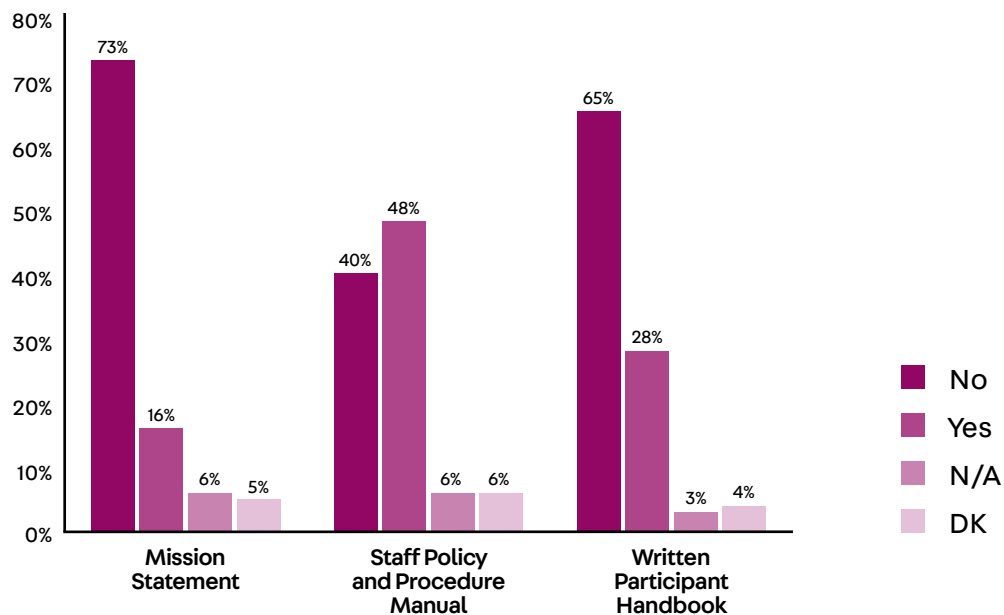


FIGURE 2

## Offer Non-English-Speaking Participants Translations Services and Court Materials in their Native Languages

Many communities in the US are becoming more racially and ethnically diverse. Consequently, treatment courts can expect to engage with participants who do not speak English or when English is a secondary language. Having translation services and materials in diverse languages is crucial to ensure that diverse language participants have procedural fairness as they matriculate through the court system. It is imperative for treatment court participants to understand the legal implications of program participation in their spoken language. Additionally, participants should have an opportunity to voice their input on the decision-making process and there should be staff who are able

to interpret and understand their comments. Of the courts that indicated interacting with diverse language participants, approximately two-thirds (67%) “often” or “always” provide translators/translation services. On the contrary, many programs (56%) “never” or “rarely” offer treatment court materials in languages other than English.

### RECOMMENDATION

*Statewide administrators should ensure that treatment court team members are aware of available interpreter services. All statewide materials (written, audio, and video) should ideally be available in each participant’s native language and/or an interpreter should be available, and local courts should consider employing a community-based outreach specialist (e.g., cultural broker, community liaison, participant outreach, peer-support) to support diverse language participants.*

### TRANSLATION SERVICES AND MATERIALS

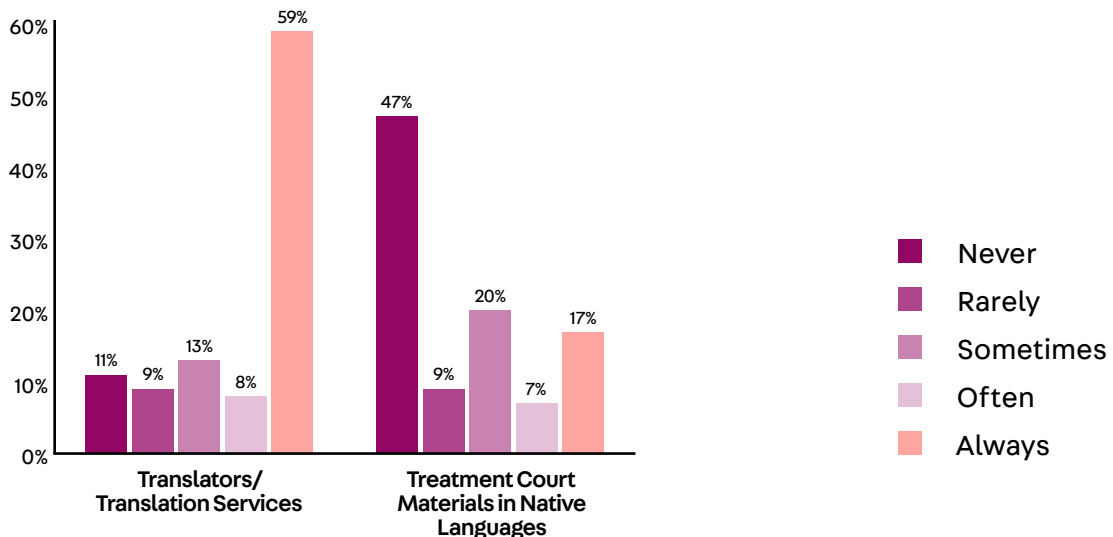


FIGURE 3

## Make Trainings Widely Available on Strategies to Reduce RED and Cultural Competency

Training is a common and effective method to support treatment court team members skill building and enhance their performance on the team. It is vital for treatment court professionals to learn about strategies to reduce RED and gain cultural awareness and responsivity to make treatment courts equitable. It was promising to see that most courts offer training on strategies to reduce RED (58%) and training on cultural competency (60%). However, only 16% of respondents indicated that training on strategies to reduce RED are mandatory for all team members, whereas for cultural competency training, the percentage was slightly higher at 20%. In addition, few courts reported making any changes to the programs follow-

ing training, with 38% for RED training and 25% for cultural competency training.

### RECOMMENDATION

*Statewide administrators should develop and/or coordinate training programs for every team member focused on reducing racial and ethnic disparities in treatment courts. Local treatment court teams should debrief after these trainings and create a plan to implement strategies on reducing racial and ethnic disparities within their treatment court. These training(s) on reducing racial and ethnic disparities can be made mandatory for teams on an annual basis.*

*Statewide administrators should also implement formal training on cultural awareness and cultural humility to educate staff on engagement with cultures other than their own. These trainings should also be debriefed, and next steps should be identified within each team.*

### TRAININGS OFFERED FOR TEAM MEMBERS

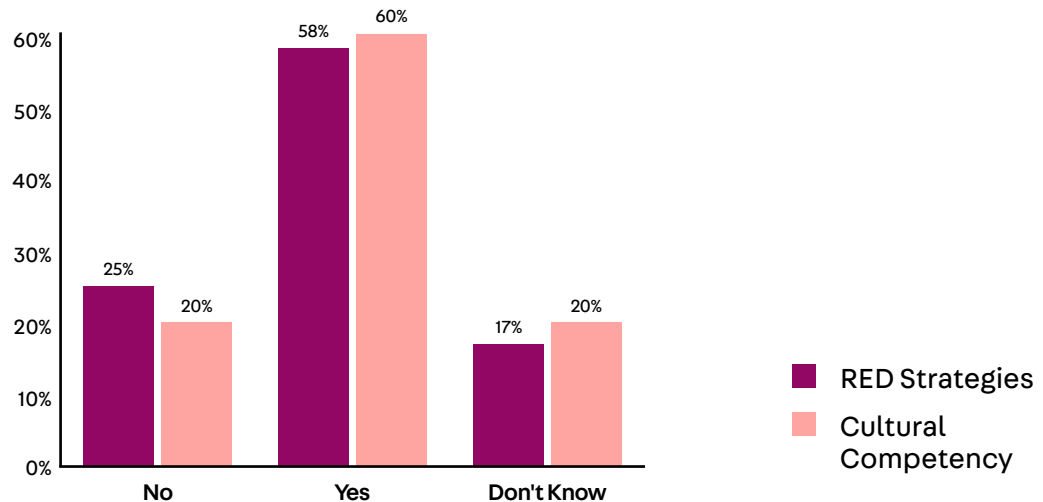


FIGURE 4

### MANDATORY TRAINING FOR TEAM MEMBERS

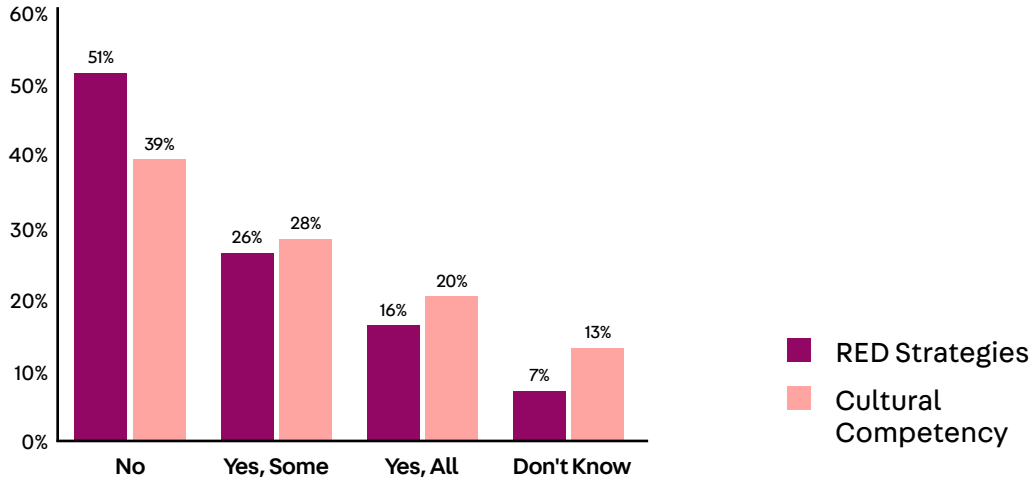


FIGURE 5

### CHANGES IMPLEMENTED AFTER TRAINING

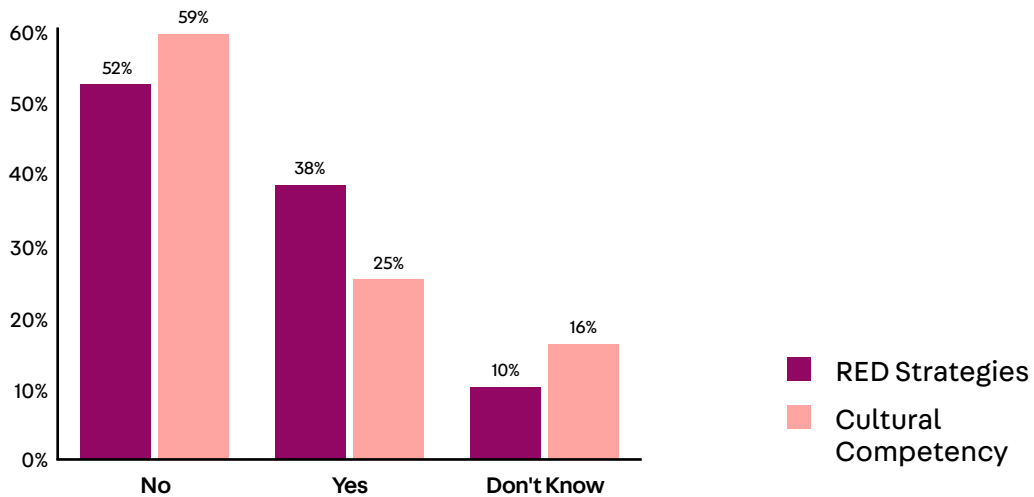


FIGURE 6

## Regularly Review Termination and Graduation Data by Race and Ethnicity

Monitoring data and conducting evaluation activities are crucial to the operations of treatment courts. Collecting and analyzing data allows courts to identify what is going well or areas that can be improved. If something is going poorly, data gives the court an opportunity to brainstorm ideas to make improvements to operations. For courts to know if disparities exist, the court must regularly review race and ethnicity data on a regular basis. Less than one-third (30%) of courts regularly review graduation and termination data by race and ethnicity. If courts do not monitor all aspects of data, they are noncompliant with the Equity and Inclusion Adult Drug Court Best Practice Standard.

### RECOMMENDATION

*Local treatment courts should regularly examine aggregate and disaggregate graduation and termination data to determine the rates of retention of participants of different ethnic and racial groups. Statewide administrators can help local courts identify an evaluator to evaluate disparities in program outcomes at each phase of the program.*

### REGULARLY REVIEWING TERMINATION AND GRADUATION DATA

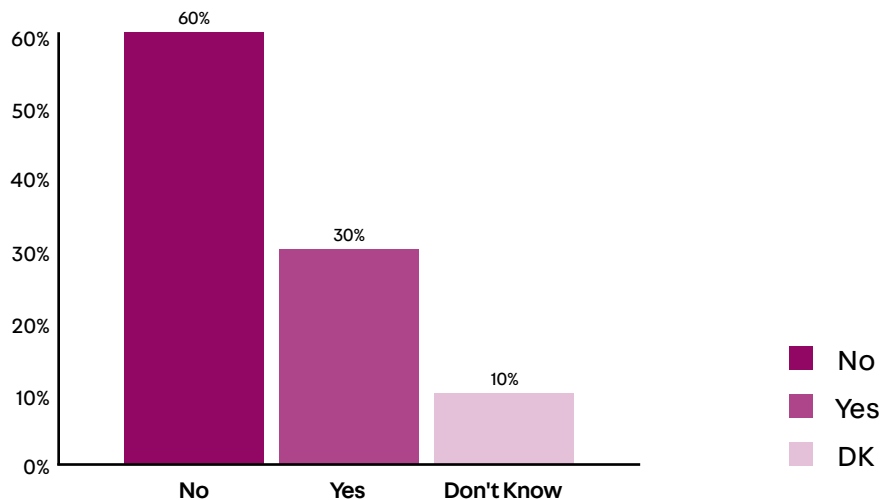


FIGURE 7

## Conclusion

Treatment courts are effective interventions, however, there is always room for improvement. Our research highlighted the need for more treatment courts to craft operational documents with racial and ethnic equity language. Although many courts offered diverse populations translators/translation services, treatment court materials in languages other than English was less prominent. Regarding training on strategies to reduce RED and cultural competency, trainings should be offered annually for all team members and changes to programs ought to be implemented following training participation. More courts should regularly review their graduation

and termination data broken down by race/ethnicity to uncover disparities. As treatment courts implement strategies to enhance minoritized participants' access, retention, and program satisfaction, equity and inclusion must be a key priority. When treatment courts complete the RED tool, implement policy recommendations, and participate in training and technical assistance opportunities, programs will become more equitable and inclusive. We commend each jurisdiction and state that participated in this study and we encourage additional statewide administrators and local courts to address racial and ethnic disparities in treatment courts.

## References

- Gallagher, J. R., Menon, P., Francis, Z., Collinson, M., & Odili, P. (2023). Color in the Court: Using the Racial and Ethnic Disparities (RED) Program Assessment Tool to Promote Equitable and Inclusive Treatment Court Practice. *Alcoholism Treatment Quarterly*, 41(2), 149-161. <https://doi.org/10.1080/07347324.2023.2173037>
- Ho, T., Carey, S. M., & Malsch, A. M. (2018). Racial and Gender Disparities in Treatment Courts: Do They Exist and Is There Anything We Can Do to Change Them? *Journal for Advancing Justice* 1, 5-34.
- National Association of Drug Court Professionals. (2018). *Adult Drug Court Best Practice Standards Volume 1 Text Revision*. <https://allrise.org/wp-content/uploads/2023/06/Adult-Drug-Court-Best-Practice-Standards-Volume-I-Text-Revision-December-2018.pdf>



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